

# **SAFER STREETS, SAFER HOMES:**

## **The Success of the Violence Against Women Act and the Challenge for the Future**



**A Report from  
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## **I. INTRODUCTION**

A journey of a thousand miles is made one step at a time. This has been true too in our decade-long fight to combat violence against women. With the passage in 1994 of the landmark Violence Against Women Act, we exposed the dirty little secret of violence against women as the major public crime that it is across our nation.

Backed by a nearly one and half billion dollar commitment of federal funds, the Violence Against Women Act has spurred a sea change on the federal, state and local levels in how police, prosecutors, judges, and many others handle cases of violence against women. This report documents these changes, which would not have occurred but for the Violence Against Women Act of 1994.

States, counties, cities, and towns across the country are creating a seamless network of services for victims of violence against women -- from law enforcement to legal services, from medical care and crisis counseling to shelters and support groups. The Violence Against Women Act has made and is making a real difference in the lives of millions of women and children by providing much needed funds at the local level to:

- Give police officers more specialized training both to deal swiftly and surely with abusers and to become more sensitive toward victims, as well as providing them with better evidence-gathering and information-sharing equipment and skills;

- Train prosecutors and judges on the unique aspects of cases involving violence against women;
- Hire victim advocates and counselors and provide an array of services, including 24-hour hotlines, emergency transportation, medical services, and specialized programs to reach victims of violence against women from all walks of life; and
- Open new and expand existing shelters for victims of violence against women and their children.

Together -- at the federal, state, and local levels -- we have been steadily moving forward, step by step, along the road to end this violence once and for all. But there is more to do.

When I first introduced the Violence Against Women Act in 1990, few thought it either appropriate or necessary for national legislation to be enacted to confront the very serious problem of family violence and sexual assault. As the 1993 Judiciary Committee report stated:

Perhaps the greatest threat to our Nation is the increasing problem of violent crime that afflicts all people. . . . But there are also some crimes, including rape and family violence, that disproportionately burden women. Violence against women reflects as much a failure of our Nation's collective willingness to confront the problem as it does the failure of the Nation's laws and regulations. Both our resolve and our laws must change if women are to live free and equal lives.<sup>1</sup>

In the end, Congress demonstrated that resolve in 1994 in passing the Violence Against Women Act, reaching a bi-partisan consensus that the federal government both could and should provide significant resources and leadership in a national effort to end the violence women suffer at the hands of men.

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<sup>1</sup> S. Rep. 103-138, [hereafter, "1993 Senate Rep."] at 37.

With passage of the Violence Against Women Act, the federal government for the first time adopted a comprehensive approach to fighting violence against women. As this report describes, the approach we took combined tough new criminal penalties with flexible grant programs to help women and their children who are victims of this violence. This approach has produced extraordinary results. Through grants established under the Violence Against Women Act, states and local communities have been able to create and implement family violence programs targeted to fill their citizens' particular needs. These programs range from policies to encourage the arrest and prosecution of abusers, to victims' services like shelters, to education and other efforts to prevent acts of violence against women from happening in the first place. Since fiscal year 1995, nearly \$1.4 billion dollars has been appropriated for the programs created by the Violence Against Women Act.<sup>2</sup>

The range of efforts undertaken over the past five years as a direct result of the Violence Against Women Act have, in fundamental ways, changed both how victims of violence against women are treated in the legal system and the services available to them. Even more profoundly, we have successfully begun to change attitudes, perceptions, and behaviors related to violence against women. This report clearly shows there is a real shift from the days when violence against women was tolerated, ignored, dismissed, or just plain misunderstood.

For all the progress we have made, there remain far too many women and their children who are still vulnerable to the cowardly criminals who abuse women. It is because we now have a track record of success -- as documented in this report -- that we must ensure that our successes continue in the future. This is why I, joined by

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<sup>2</sup> The total amount appropriated to date for Violence Against Women Act programs, beginning in fiscal year 1995, is approximately \$1.367 billion (recommended appropriations for fiscal year 2000 are \$452.25 million; the total including that figure is \$1,819 billion).

many of my colleagues, introduced the Violence Against Women Act II on the first day of the 106th Congress.<sup>3</sup> The Violence Against Women Act II is a focused, practical response to meet a simple goal -- to protect more women and their children from family violence by continuing what has worked in the past and taking some new steps to fill gaps that remain in our ability to make more women and children safe. It will continue our commitment by renewing funding for the programs that have been shown to have worked in the past as well as creating some new ones to fill the gaps in needed services by devoting \$1.92 billion over three years to these programs. The time when a woman had to suffer in silence because the criminal who was victimizing her happened to be her husband or boyfriend is over. Together, by taking this next step to pass the Violence Against Women Act II, we can move even closer to our goal.

## **Acknowledgments**

Many have worked diligently and lent their expertise over the last ten years to formulate and fight for the Violence Against Women Act and the proposed Violence Against Women Act II. Special thanks is due to all of the State Domestic Violence Coalitions and Coordinating Councils and individual service providers for their leadership in putting the Violence Against Women Act into action and for providing data on specific new initiatives and programs funded by the Act. The success of the Violence Against Women Act to date would not have been possible without the leadership of U.S. Attorney General Janet Reno, Secretary of Health and Human Services Donna Shalala, and the Director of the Justice Department's Violence Against Women Act Office, Bonnie Campbell. The assistance of the Department of Justice and

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<sup>3</sup> The Violence Against Women Act II (S. 51) was introduced on January 19, 1999. Some changes have been made in this bill since it was introduced (e.g., a provision on hate crimes has been dropped and a provision establishing a statutory Violence Against Women Office at the Justice Department has been added). This report reflects these changes.

the Department of Health and Human Services in providing critical data, records and statistics for this report is also greatly appreciated.

## **II. THE FACTS ABOUT VIOLENCE AGAINST WOMEN: WHERE WE WERE AND WHERE WE ARE NOW**

### **Where We Were Before the Violence Against Women Act**

Before the Violence Against Women Act became law, our society and criminal justice system all too often ignored and dismissed violence against women. As the 1993 Judiciary Committee report observed, “nowhere is the habit of violence harder to break than at home.”<sup>4</sup> That report reminded us how, until relatively recently, family violence was tolerated in law and in practice, based on the common law “rule of thumb.” The “rule of thumb” held that a husband was barred from:

‘restraining a wife of her liberty by chastisement with a stick thicker than a man’s thumb.’ This rule, originally intended to protect women from excessive violence, in fact led to a reluctance on the part of government to interfere to protect women even where serious violence occurred.<sup>5</sup>

The 1993 Report, along with numerous other Judiciary Committee reports and the record created by multiple Judiciary Committee hearings, established a disturbing picture of the reality of violence that women uniquely experienced on a daily basis. For example, it described “cases where a comparable assault by a stranger on the street would lead to a lengthy jail term, [but] a similar assault by a spouse will result neither in arrest nor prosecution” and that “one-third of all women who are murdered die at the hands of a husband or boyfriend.”<sup>6</sup>

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<sup>4</sup> 1993 Senate Rep. at 41.

<sup>5</sup> *Id.* (quoting Biden, “Domestic Violence, A Crime Not a Quarrel,” Trial at 56, citing Sir William Blackstone, Commentaries on the Laws of England, quoted in Susan G. Bell and Karen M. Offens, “Women, The Family and Freedom: The Debate in Documents,” at 4 (1983)).

<sup>6</sup> 1993 Senate Rep. at 41 (footnotes omitted).



The 1993 Report documented the inadequate legal response to crimes against women. For example, some states failed to recognize the rape of a spouse as a crime and others did not even prosecute such rapes unless aggravating circumstances such as a weapon were involved or simply classified it as a less serious crime with lesser penalties.<sup>7</sup> The 1993 Report showed how hard it was for victims of rape to obtain justice or protection from the criminal justice system. It observed that:

From the initial report to the police through prosecution, trial and sentencing, crimes against women are often treated differently and less seriously than other crimes. Police may refuse to take reports; prosecutors may encourage defendants to plead to minor offenses; judges may rule against victims on evidentiary matters; and juries too often focus on the behavior of the survivors—laying blame on the victims instead of on the attackers. At every step of the way, the criminal justice system poses significant hurdles for victims of sexual assault.<sup>8</sup>

The Violence Against Women Act responded to an unfolding “national tragedy played out every day in the lives of millions of American women at home, in the workplace, and on the street.”<sup>9</sup> The Act was intended to -- and did -- represent a “first step in forging a national consensus that our society will not tolerate violence against women.”<sup>10</sup>

### **How Far Have We Come? Some Progress, But Not Enough.**

Five years after the Violence Against Women Act became law, it is demonstrably true that the state of affairs that existed before its enactment has changed for the better.

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<sup>7</sup> *Id.* at 42.

<sup>8</sup> *Id.*

<sup>9</sup> S. Rep. No. 102-197, at 39 (1991).

<sup>10</sup> 1993 Senate Rep. at 42.

The Violence Against Women Act was intended to respond both to the underlying attitude that this type of violence is somehow less serious than other crime and to the resulting failure of our criminal justice system to address such violence.<sup>11</sup> It worked -- not only have attitudes changed, but, as the data below shows, violent crime as a whole also has been reduced. Although progress *has* been made, violence against women in this country is still far too prevalent. As the following facts and statistics show, women are safer on our streets and in their homes than they were before the Act was passed, but still are not safe enough.

### **Facts About Violence Against Women Today:**

- Crime Is Down:
  - Between 1993 and 1998, the overall violent crime rate fell 27 percent from 52 to 38 incidents per 1,000 persons. From 1997 to 1998, violent crime rates declined seven percent.<sup>12</sup>
  - Over the same period the rate of robbery declined 33 percent; aggravated assault 38 percent; simple assault 20 percent; and rape or sexual assault 40 percent.<sup>13</sup>
  - Forcible rape of females in 1997 declined 13 percent compared to 1993.<sup>14</sup>

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<sup>11</sup> *Id.*

<sup>12</sup> Bureau of Justice Statistics, *National Crime Victimization Survey 1998* (July 1999) [hereafter, "1998 National Crime Victimization Survey"] at 11.

<sup>13</sup> *Id.*

<sup>14</sup> Federal Bureau of Investigation, *Uniform Crime Reports for the United States 1997* (Nov. 1998) [hereafter, "1997 FBI Uniform Crime Reports"]. (Crime statistics for 1997 are often the most recent statistics available.)

- Attackers Most Likely Know Their Victims:
  - In 1997, over 7 in 10 rape or sexual assault victims knew their attackers; and 5 in 10 aggravated assault victims knew the offender.<sup>15</sup>
- Children Are Targets:
  - In 1998, children age 12-15 were raped or sexually assaulted at 4 times the rate of adults 50 or older; those age 16-24, at a rate 5 times that of persons age 50 or older.<sup>16</sup>
  - Studies show that child abuse occurs in 30 to 60 percent of family violence cases that involve families with children.<sup>17</sup>
- Every Five Minutes, A Woman Is Raped.<sup>18</sup>
- Every 38 Seconds, Another Reported Crime of Violence Against Women By An Intimate Occurs: In 1996, nearly 840,000 violent victimizations (including rape, sexual assault, robbery and assault) of women by an intimate (such as a present or former spouse or an intimate partner) occurred. This is down from over 950,000 victimizations in 1992.<sup>19</sup>
- Danger Zone For Violence Against Women--Evenings And Weekends: State crime statistics show half of all domestic violence crimes occur between the

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<sup>15</sup> 1998 National Crime Victimization Survey.

<sup>16</sup> *Id.*

<sup>17</sup> "The Overlap Between Child Maltreatment and Woman Battering," J.L. Edelson, *Violence Against Women* (Feb. 1999).

<sup>18</sup> 1997 FBI Uniform Crime Reports.

<sup>19</sup> Greenfield, *Violence by Intimates: An Analysis of Data on Crimes by Current or Former Spouses, Boyfriends, and Girlfriends*, U.S. Dept. of Justice (March 1998), [hereafter, "Violence By Intimates"]

hours of 7 p.m. and 2 a.m., and nearly 40 percent of all domestic violence crimes occur on Saturday and Sundays.<sup>20</sup>

- Family Violence Is A Leading Cause Of Injuries To Women:
  - More women are injured by domestic violence each year than by automobile accidents and cancer deaths combined.<sup>21</sup>
  - Over one-third of all women who go to emergency rooms in this country are there because of family violence.<sup>22</sup>
- Many Victims Find A Safe Haven, But A Shelter Gap Remains:
  - Using conservative estimates, over 250,000 women and their children used shelters in 1997.<sup>23</sup>
  - But hundreds of thousands more are turned away every year. In one state alone, nearly 17,000 had to be turned away from that state's shelters from July 1997 through June 1998.<sup>24</sup> Other states report from 3,000 to 4,000 turned away for lack of space that year. In another state, three-fourths of its counties have no shelters.
- Women Are More Likely To Be Victims of Violence Than In The Past: In 1997, women were about two-thirds as likely as men to be victims of violence; 20 years ago, they were half as likely.<sup>25</sup>

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<sup>20</sup> Statistical information provided by states of Maryland and Kansas (August 1999).

<sup>21</sup> 1997 FBI Uniform Crime Reports; other information provided by Federal Highway Administration and Centers for Disease Control (August 1999).

<sup>22</sup> Violence By Intimates.

<sup>23</sup> Interview, Dept. of Health and Human Services, Administration for Children and Families staff (April 1999). The number of women is 132,328 and of children is 130,676, drawn from 1997 state reports. Five states did not report numbers; two others reporting "clients" were omitted.

<sup>24</sup> Arizona Coalition Against Domestic Violence (August 1999).

<sup>25</sup> 1998 National Crime Victimization Survey.

- Weapons And Abuse: Twenty-nine percent of crimes of violence by an intimate were committed by an offender carrying a weapon.<sup>26</sup> Nine percent of rapes or sexual assaults were committed in 1997 by an offender using a weapon.<sup>27</sup>
- Nearly All Murders Of Women Are By Men: In 1997, females represented 23 percent of all known homicide victims in the United States; 9 out of 10 female victims are murdered by males.<sup>28</sup> That year, 29 percent of the murders of women were by husbands or boyfriends.<sup>29</sup>
- Women Are Far More Likely to Suffer Violence In Intimate Relationships: For rape, robbery, and assault in 1997, female victims experienced 7 times as many incidents of violence by an intimate (such as present and former spouses or other intimate partners) than male victims.<sup>30</sup>
- No Arrests In Over Half The Reported Rapes: Nationwide, over 50 percent of rape reports in 1997 did not result in arrests.<sup>31</sup>
- Prison Terms For Sex Offenses Are Up, But Barely: Offenders released from prison for rape in 1996 served an average of 66 months, up from 62 months for those released in 1990; offenders released for other sexual assault offenses in 1996 served 45 months, 9 months longer than those released in 1990.<sup>32</sup>
- Three to Four Million Women A Year May Be Victims Of Family Violence: Estimates range from 960,000 incidents per year of violence against women by a former spouse, boyfriend or girlfriend to 3.9 million women per year who are physically abused by their husbands or boyfriends. Lack of reliable data is due

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<sup>26</sup> *Id.*

<sup>27</sup> 1998 National Crime Victimization Survey.

<sup>28</sup> *Id.*; 1997 FBI Uniform Crime Reports.

<sup>29</sup> 1997 FBI Uniform Crime Reports.

<sup>30</sup> Violence By Intimates.

<sup>31</sup> 1997 FBI Uniform Crime Reports.

<sup>32</sup> Bureau of Justice Statistics, *Felony Sentences in State Courts, 1996* (July 1999).

in part to the deficiency in reporting to the police; only about half the incidents of violence experienced by women are reported to the police.<sup>33</sup>

- Teen Dating Violence: One out of 10 high school students say they have experienced physical violence in dating relationships; 62 percent knew of a friend who had been abused.<sup>34</sup>
- College Campuses Can Pose Risks for Women: Violence against women occurs in 20 percent of dating couples; in 1997, there were 362 forcible rapes reported on America's colleges and universities.<sup>35</sup>

### **Facts About How States Responded**

The passage of the Violence Against Women Act in 1994 brought violence against women out of the shadows. Examples of how states have responded with measures to fight this crime are:

- States have passed laws to strengthen criminal penalties against abusers of women. For example, some state laws now provide that the existence of a no-contact order, a protection order, or a restraining order at the time of the victim's murder is an aggravating factor in sentencing for first degree or second degree murder. Under Delaware law, committing domestic violence in the presence of a child has been made a crime of endangering the child's welfare.<sup>36</sup> And, under Kentucky law, it is a crime for a person to flee or evade police immediately after committing an act of domestic violence.<sup>37</sup>
- Forty-one states and the District of Columbia have a statutory provision that requires courts to consider domestic violence as a factor in child custody cases.

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<sup>33</sup> Violence By Intimates; The Family Violence Prevention Fund website.

<sup>34</sup> *Teen Magazine* survey, April 1999.

<sup>35</sup> American Psychological Association, *Violence and the Family: Report of the American Psychological Association Presidential Task Force on Violence and the Family*, 1996; 1997 FBI Uniform Crime Reports.

<sup>36</sup> Hofford, Family Violence Legislative Update (1999), National Council of Juvenile and Family Court Judges [hereafter, "Family Violence Legislative Update"] at 6.

<sup>37</sup> *Id.* at 7.

Of the remaining nine states, one permits it but does not require it and eight states have no provisions requiring or permitting this consideration.<sup>38</sup> In 1998, Massachusetts law created a rebuttable presumption that it is not in the best interest of the child to be placed in sole or joint custody with an abusive parent and provides for alternatives such as supervised visitation.<sup>39</sup>

- More than half of the states have passed laws, or have introduced legislation, to ensure that full faith and credit be given to protection orders<sup>40</sup> across state lines. For example, California law specifically requires that applicants for protection orders be given information about how to enforce an order issued by a California court in other jurisdictions.<sup>41</sup>
- Many states have passed laws, or are considering legislation, that require abusers to surrender their guns if a protection order has been issued against the abuser or if the abuser has been convicted of a misdemeanor or felony domestic violence crime. In West Virginia, for example, an abuser who is the subject of a protection order must be informed in the order that possession of a firearm while the order is in effect violates federal law.<sup>42</sup>
- States have enacted laws or regulations ensuring that an abuser is denied access to a victim's address and telephone number. For example, several states prohibit disclosure of this information in dependency, neglect, or child support proceedings. Florida and California both now have address confidentiality programs for victims of violence against women that include allowing participants to vote by absentee ballot.<sup>43</sup>
- All states have enacted laws or law enforcement regulations mandating pro-arrest policies when officers respond to a domestic violence incident.

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<sup>38</sup> U.S. Dept. of Justice Violence Against Women Office (August 1999).

<sup>39</sup> Family Violence Legislative Update at 8.

<sup>40</sup> A protection order is an order issued by a state court to an abuser to stop abusing and often orders an abuser to stay away from his spouse, her home, and her workplace. Penalties include fines and jailtime.

<sup>41</sup> *Id.* at 5.

<sup>42</sup> *Id.*

<sup>43</sup> *Id.* at 7.

- All states have changed laws that treated date or spousal rape as a lesser crime than stranger rape.
- By 1998, 45 states imposed criminal charges for violating protection orders.

Specific state programs demonstrate this trend. Alaska, for example, passed a “Domestic Violence Prevention and Victim Protection Act” in 1996. It comprehensively addressed domestic violence crimes, protection orders, and mandatory arrest policies and increased the court, corrections, and parole board responsibilities to victims. North Carolina passed the Safe Families Act, which provides compatibility between state and federal protection order registries, mandates full faith and credit for out-of-state protection orders and makes it a criminal violation to violate an out-of-state protective order.

### **Facts About How Business Responded**

Like the states, businesses have also joined the national fight against violence. For example, hundreds of companies, led by the model programs established by Polaroid, Liz Claiborne, The Body Shop, Aetna and DuPont, have created Employee Assistance Programs that help victims of domestic violence. Cellular telephone companies, led by Bell Atlantic Mobile, have coordinated efforts in states across the country to provide free cellular phones to victims of domestic violence, pre-programmed with an emergency number to reach police. Local businesses in communities across the country also have taken steps to help protect victims of violence against women.

### **Facts About How the Legal Community Responded**



Law schools, states, state and national bar associations (including the American Bar Association), and individual law firm *pro bono* programs have joined the fight by working to increase legal services available to women victims. For example:

- In 1998, with Violence Against Women Act funds, Widener School of Law at the University of Delaware opened a domestic violence law clinic, partnering with the YWCA, the Latin American Community Center and other community groups and attorneys.
- In November 1996, the Delaware Volunteer Legal Services arm of the State Bar Association and Widener School of Law opened a domestic violence clinic at the Community Legal Aid Society office. This clinic helps victims with protection orders, custody cases, divorces and other domestic violence-related issues.
- In Vermont, a new Legal Access for Women Project funds four attorneys at the Vermont Legal Aid clinic to respond to the family law needs of victims identified by advocates at local domestic violence programs. After 26 years of being underfunded, a dependable resource now exists for many of the desperate survivors needing legal help.
- Alaska used a Violence Against Women Act Civil Legal Assistance Grant to hire four attorneys to provide assistance to victims of violence against women. Two attorneys work for Alaska Legal Services and provide direct legal representation to victims of domestic violence and sexual assault who need help in divorce proceedings, custody matters, or in obtaining a protection order. One works exclusively with battered immigrant women. The fourth is developing a statewide *pro bono* legal information and referral telephone system and a mentoring program for *pro bono* attorneys who will take cases involving violence against women.

### **Facts About How Attitudes Have Changed**

A change in our country's attitude towards violence against women is evident as well in the number of television programs and movies about domestic violence, stalking and sexual abuse. From Hollywood pictures depicting victims of domestic violence to talk shows putting the number of the National Domestic Violence Hotline on the television screen, awareness of violence against women has a higher profile throughout our country. One example of how attitudes have changed is a national poll

released in June of 1999, which reveals that a majority of Americans think that exposing children to domestic violence is a form of child abuse. The poll found that 63 percent of adults in the United States believe that a parent striking another parent in front of a child is child abuse.<sup>44</sup>

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<sup>44</sup> Penn, Schoen & Berland, Children's Institute International National Survey (June 1999).

### **III. The Successes of the Violence Against Women Act and How The Violence Against Women Act II Continues That Work**

The Violence Against Women Act of 1994 approached the goal of ending violence against women in three key ways. It helped make our streets safer for women by strengthening federal criminal law on sex crimes and funding grant programs to enhance enforcement of state laws to protect women from violence. It helped keep women safer in their homes by mandating pro-arrest policies and encouraging strict enforcement of protection orders to keep abusers away from their victims. It also funded shelters, hotlines, and other victim services. Finally, it created the first-ever private cause of action which, along with other new procedures and tools, enables victims of violence against women to obtain equal justice in the courts.

In short, the Act strove to change fundamentally the way the justice system responds to family violence and sexual assault at each step in the process -- from initial complaint to arrest and through trial to recovery. The Act also focused on prevention through education and other programs to stem violence against women in the first place. In essence, it enabled the federal government to work in partnership with states and local communities, combining legal and practical reforms designed to combat all forms of violence against women to deal more effectively with the complex issues that arise when a family is torn apart by family violence. How the Act's promise has been made real is detailed here, along with a description of how the Violence Against Women Act II will continue or expand on those successes for the future.

**A. How The Violence Against Women Act Is Funded: The Critical Importance of Extending the Violent Crime Reduction Trust Fund**

**Progress to Date:** As of August 1999, programs created by the Violence Against Women Act have provided \$950.5 million to the Department of Justice and \$416 million to the Department of Health and Human Services since fiscal year 1995 to help states, local governments, Indian tribes and community groups stop the plague of violence against women. Every state has received grants under these programs and benefitted from them in countless ways. This funding was possible because of a key element of the 1994 Crime Bill -- the Violent Crime Reduction Trust Fund. Perhaps the most important crime fighting tool at our disposal, the Violent Crime Reduction Trust Fund ensures that money is reserved in the appropriations process for purposes of fighting crime.

**What the Violence Against Women Act II Does -- Extends the Trust Fund:** To ensure that Violence Against Women programs continue to be funded requires a simple yet crucial step: extending the Violent Crime Reduction Trust Fund, which currently is due to expire in 2000. This is perhaps the most significant provision in the Violence Against Women Act II. Without it, we will be unable to replicate our past successes in combating violence against women. The Violence Against Women Act II would preserve this dedicated source of revenue to fight violence against women by extending the Trust Fund through the year 2005.

## **B. Making Streets Safer For Women**

### **Strengthening Federal Criminal Law on Sex Crimes**

**Progress to Date:** The Violence Against Women Act significantly strengthened federal criminal law related to crimes of violence against women. In particular, it enhanced the substantive and procedural federal criminal law on sex crimes by:

**Doubling federal penalties for repeat sex offenders:** The Violence Against Women Act amended the federal criminal code by adding section 2247 to Title 18. This provision authorizes up to double the existing federal penalty for repeat sex offenders who commit a sexual abuse or sexual contact offense after having been convicted previously of aggravated sexual abuse,<sup>45</sup> sexual abuse,<sup>46</sup> or abusive sexual contact.<sup>47</sup>

**Enhancing federal penalties for sex crimes:** The Violence Against Women Act called for the Sentencing Commission to review and amend, if necessary, the sentencing guidelines for sex crimes involving multiple offenders, to equalize the treatment of acquaintance and stranger rape under federal law, to minimize disparities

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<sup>45</sup> The crime of “aggravated sexual abuse,” codified at 18 U.S.C. § 2241, involves a sexual act plus the use of force against or fear of death by the victim. Without enhancement, the penalty is any term of years or life, or both.

<sup>46</sup> The crime of “sexual abuse,” codified at 18 U.S.C. § 2242, involves sexual activity plus a fear of  
bodily harm by the victim or a victim who is unable to understand or resist what is happening. Without enhancement, the penalty is a prison term of up to 20 years.

<sup>47</sup> The crime of “abusive sexual conduct,” codified at 18 U.S.C. § 2243, involves contact that if it had been a sexual act would have been sexual or aggravated sexual abuse. Without enhancement, the penalty is a prison term of up to 10 years. The Violence Against Women Act also expanded the scope of federal sex crime felonies involving children by adding to the definition of criminal sexual acts the offense of intentional touching of genitalia of victims under 16 with the intent to gratify sexual desire (18 U.S.C. § 2246(2)(D)).

between federal and state penalties, and to address recidivism. The Sentencing Commission issued a report, sought public comment, and held a hearing on these issues in March 1995. It concluded that, except for penalties related to aggravated sexual abuse by multiple participants -- where it found that an increased sentence may be warranted -- current penalties for sex crimes under the sentencing guidelines were adequate.<sup>48</sup> In addition, since the Violence Against Women Act, disparities between state penalties for rape by an acquaintance and by someone not known to the victim have narrowed. For example, the average prison time in state prisons for those who victimized a spouse or another intimate is now similar to the average sentencing for those who victimized strangers or acquaintances.<sup>49</sup> In addition, the median sentence of state prisoners for assault is now four years longer if the victim is the spouse, not a stranger.<sup>50</sup>

Stalking: “Stalking” involves acts such as repeatedly following or spying on someone, vandalizing property or destroying something cherished that cause a person to fear bodily harm. By this definition, approximately one million women are stalked annually in the United States.<sup>51</sup> Men who abuse women often try to frighten or control their victims through stalking.<sup>52</sup> It has been estimated that up to 80 percent of stalking

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<sup>48</sup> Sentencing Guidelines, Sec. 2A3.1, App. C, Amendment 511 (eff. Nov. 1, 1995).

<sup>49</sup> Violence by Intimates at vi.

<sup>50</sup> Violence by Intimates at 29.

<sup>51</sup> Tjaden, Patricia and Nancy Thoennes, National Institute of Justice Centers for Disease Control and Prevention, Research in Brief, *Prevalence, Incidence, and Consequences of Violence Against Women: Findings From the National Violence Against Women Survey*, NCJ-172837, November 1998.

<sup>52</sup> For example, an abuser may follow his victim to work, causing her to quit her job to escape the stalking.

cases occur within intimate relationships.<sup>53</sup> Of female stalking victims, 77 percent know their stalker and 81 percent of females stalked by an intimate were also physically assaulted by that partner.<sup>54</sup>

To combat stalking, the Violence Against Women Act created the National Stalker and Domestic Violence Reduction grant program to allow state civil and criminal courts access to information from the federal criminal information databases for use in family violence and stalking cases. Violence Against Women Act funds were used to establish computerized information systems to capture domestic violence and stalking protection orders and to ensure that local, state and national crime databases included family violence offenses. The Act also required that data related to family violence be included in the National Incident-Based Reporting System. This has revolutionized data collecting on incidences of family violence. For example, in 1997, the Sourcebook of Criminal Justice Statistics compiled by the Department of Justice included for the first time data relating to family violence or stalking -- a quarter-century after it began publication.

Using funding from grants under the Violence Against Women Act, states are taking steps to strengthen law enforcement efforts to stop stalkers who prey on innocent women. Kansas, for example, has developed kits on stalking for use by law enforcement and victim service agencies. These kits contain tools to help document stalking, such as door alarms, disposable cameras and cassette recorders. The Kansas Bureau of Investigation also trains police on stalking issues, including how to document stalking incidents and how to collect evidence for prosecution in court.

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<sup>53</sup> U.S. Dept. of Justice, National Institute of Justice, *Domestic Violence and Stalking, The Third Annual Report to Congress under the Violence Against Women Act* (July 1998).

<sup>54</sup> *Id.*

The Violence Against Women Act also required that the Department of Justice prepare annual reports for 1996, 1997 and 1998 on the incidence of stalking.<sup>55</sup> These reports provide detailed information about stalking, some of it for the first time. For example, the reports have given us reliable information on how many people are stalked, revealing the scope of the problem. They also provide information on relevant state laws, sentencing, court supervision of stalkers, and common characteristics of those offenders.<sup>56</sup> Continuing the Violence Against Women Act's efforts to address the problem of stalking, in 1996 interstate stalking was made a federal criminal offense.<sup>57</sup>

**What the Violence Against Women Act II Does -- Strengthens Current Federal Criminal Law on Interstate Stalking and Reauthorizes Grants to Reduce Stalking:**

The Violence Against Women Act II would strengthen the criminal code by making the "harm" element uniform and consistent for all crimes created by or after the Act: family violence, stalking, and interstate travel offenses (discussed below). The new Act would clarify that the offense of interstate stalking includes the intent to intimidate as well as to injure or harass another person through conduct placing that person in reasonable fear of death or serious bodily injury to the person or an immediate family member, and that interstate stalking includes travel to and from Indian country or from a foreign country.

The Violence Against Women Act II would also reauthorize the National Stalker and Domestic Violence Reduction grant program. This would continue assistance to

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<sup>55</sup> Violence Against Women Grants Office, Office of Justice Programs, U.S. Department of Justice, *Stalking and Domestic Violence* [hereafter, "Stalking and Domestic Violence"], *The First Annual Report to Congress* (April 1996); *The Second Annual Report to Congress* (July 1997); and *The Third Annual Report to Congress* (July 1998).

<sup>56</sup> *Stalking and Domestic Violence*, at 37.

<sup>57</sup> Codified at 18 U.S.C. § 2261A.



states and local governments to improve databases for collecting and providing access to information on stalking and family violence. This access ensures that judges have all necessary information when issuing orders in stalking cases or protection orders and encourages information sharing inside states, among states, and between the states and the federal government. The proposed authorization is \$9 million over three years: \$2 million for fiscal year 2001; \$3 million for fiscal year 2002; and \$4 million for fiscal year 2003.

### **Strengthening Federal Criminal Law to Keep Abusers From Crossing State Lines To Commit Acts of Violence Against Women**

**Progress to Date:** The Violence Against Women Act added a set of provisions to federal criminal law that created federal penalties for abusers who cross state lines to continue their abuse. The Act did the following:

**Created a federal offense for interstate domestic violence:** The Violence Against Women Act added section 2261 to Title 18 to provide for federal criminal penalties, in addition to applicable state penalties, for a person who crosses, or forces a spouse or intimate partner to cross, state lines or Indian country borders with the intent to commit a crime of violence causing bodily injury to a spouse or partner and who, in the course of such travel, commits such a crime. The penalties are:

- life or a term of years if death occurs,
- up to 20 years for permanent disfigurement or life threatening bodily injury,
- up to 10 years for serious bodily injury or use of a dangerous weapon, and
- up to 5 years in all other cases.

**Created a federal offense for interstate violations of protection orders:** The Act also added section 2262 to Title 18 to impose federal criminal penalties, in addition to

applicable state penalties, on a person who crosses, or forces a spouse or intimate partner to cross, state lines or Indian country borders with the intent to engage in conduct that violates a protection order against credible threats of violence, repeated harassment, or bodily injury, and who engages in such conduct. The penalties are identical to those for section 2261 listed above.

Mandated full faith and credit for all protection orders: The Act added section 2265 to Title 18 to require states and Tribes to enforce valid protection orders issued by another State or Tribe as if they were orders issued by the enforcing State or Tribe. Prior to the Violence Against Women Act, a victim with a protection order often could not use that order as the basis for protection if the victim went to work in, traveled to, or moved to other states. This provision was modeled on already-existing federal law requiring states to enforce child custody orders issued by another state. As the 1993 Committee report noted, this represented “an appropriate response to the problem of domestic violence which, because of [its] interstate nature, transcend[s] the abilities of State law enforcement agencies” to properly address it.<sup>58</sup>

Requiring “full faith and credit” for valid protection orders from any jurisdiction where they were issued is critical to the safety of women who are forced to flee to other states to escape their abusers. It is critical because, as shown by a recent study, protection orders are effective in reducing future events of domestic violence. In 1997, the National Center for State Courts completed a study on the effectiveness of protection orders.<sup>59</sup> The National Center studied three jurisdictions -- Wilmington, Delaware; Denver, Colorado; and Washington, D.C. The study involved two different

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<sup>58</sup> 1993 Senate Rep., at 62.

<sup>59</sup> Keilitz, Hannaford and Efkenman, Hillery S., *Civil Protection Orders: The Benefits and Limitations for Victims of Domestic Violence*, National Center for State Courts Research Report, National Center for State Courts, 1997.

interviews of 90 women from each jurisdiction who had protection orders -- the first immediately after they received the order and the second six months later. Overall, the study found that protection orders are a fair and effective tool for victims seeking relief from abuse. For example:

- 98 percent said they would seek a protection order again.
- 84 percent feel safer because of obtaining such orders.
- 88 percent believe their life has been improved because of such orders.
- 70 percent had no current relationship with their abusive partner six months after receiving the order.
- 93 percent feel better about themselves since obtaining the order.
- Of the 45 percent of women who said their partner had violated the order, only 9 percent reported any physical abuse, and reports of psychological abuse or violations of stay-away or no-contact provisions accounted for most violations.<sup>60</sup>

To implement the Act's full faith and credit provisions, the Justice Department has used Pro-Arrest and STOP grant funds (described in separate sections below) to provide financial support, training, and technical assistance to law enforcement, prosecutors, advocates, and judges across the country. For example:

- The Pennsylvania Coalition Against Domestic Violence was funded to establish a nation-wide Full Faith and Credit Training and Technical Assistance Project. This project provides technical assistance and training across the country and serves as a source for full faith and credit information for state, local, and tribal jurisdictions across the country. Materials developed include a sample protection order form that contains information about enforcement across jurisdictions and applicable federal law and a one-page certification form that courts can attach to protection orders to indicate that the order is valid because due process requirements have been met.
- In a collaborative effort, the Justice Department, the International Association of Chiefs of Police, and the Full Faith and Credit Training and Technical Assistance Project have developed materials to help law enforcement officers give full faith and credit to protection orders, including a brochure that is intended to be given

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<sup>60</sup> *Id.*

to every law enforcement officer in the country; over 350,000 brochures have been distributed already.

- The National Council of Juvenile and Family Court Judges and the National Center for State Courts recently completed a bench guide for judges. The guide contains background information on the Act's provisions and related family violence issues such as child custody. It also contains laminated cards with full faith and credit practice points for courts that issue and enforce protection orders for use in training judges on full faith and credit or as a reference on the bench.
- A Protection Order File has been added to the FBI's National Crime Information Center. It went on-line in May 1997; as of June 22, 1999, 25 states are participating, either by linking their existing state system to the Center or by entering protective order information directly into the file.<sup>61</sup> There are over 170,000 active records now contained in the file. The Justice Department is helping states modify existing state and local systems to be compatible with the Center's as well as development of new state, tribal, and local registries.<sup>62</sup>

**What The Violence Against Women Act II Does -- Strengthens Interstate Travel And Full Faith And Credit Laws And Reauthorizes Full Faith And Credit**

**Funding:** The Violence Against Women Act II would expand the offense of interstate domestic violence (18 U.S.C. § 2261) and interstate violation of protection orders (18 U.S.C. § 2262) to include attempts to commit a crime of violence against a spouse or intimate partner and to clarify that the offense covers travel to and from Indian country or from another country as well as crossing state lines. It would also clarify the full

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<sup>61</sup> Those states are Alaska, Arizona, Florida, Georgia, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Minnesota, Missouri, Montana, Nebraska, New Hampshire, New Mexico, New York, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, Tennessee, Texas, and Wyoming.

<sup>62</sup> Thirty-one states (Alabama, Alaska, Arkansas, California, Colorado, Delaware, Florida, Idaho, Illinois, Indiana, Iowa, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Hampshire, New Jersey, New York, North Carolina, Oregon, Pennsylvania, Rhode Island, Tennessee, Texas, Utah, Vermont, Virginia, Washington, and Wisconsin) are currently operating state-wide protection order registries. Thirteen additional states (Arizona, Connecticut, Georgia, Hawaii, Kansas, Louisiana, Maine, Nebraska, Nevada, New Mexico, North Dakota, West Virginia, and Wyoming) are developing registries.

faith and credit requirement of 18 U.S.C. § 2265 by instructing that states or tribes cannot require that the party against whom a protection order is issued be notified that it was registered or filed unless the person being protected requests that notice be given. In addition, states or tribes would not be able to require, as a condition for enforcing a protection order issued elsewhere, that the order have been registered or notice to the person against whom it is made have been given.

The Violence Against Women Act II would also reauthorize funding for STOP grants and Pro-Arrest grants (discussed in more detail below), both of which have been used to fund programs that enhance full faith and credit practices for enforcing protection orders. The Violence Against Women Act II also would help states improve full faith and credit for protection orders by making full faith and credit enforcement of protection orders a funding priority for these grants, specifically authorizing technical assistance, making it a priority to fund the development or purchase of computerized communications and data collection systems and equipment, and requiring that applicants show they have full faith and credit and pro-arrest policies in place as a condition of grant eligibility.

### **Grants to Combat Violent Crimes Against Women: STOP Grants**

**Progress to Date:** The STOP (Services, Training, Officers and Prosecutors) grant program was created under the Violence Against Women Act to provide states and tribal governments with funding to develop and strengthen the criminal justice system's response to violence against women and to support and enhance services for victims. The purpose of the STOP grants is to promote a coordinated approach to improving the criminal justice system's response to violence against women. STOP grants have helped make real the Act's vision of forging a partnership among law enforcement, prosecutors, the courts, victim advocates, and service providers to ensure

victim safety and hold offenders accountable for their crimes of violence against women. STOP grants can be used for:

- Training law enforcement officers and prosecutors to identify and respond more effectively to family violence, sexual assault, and stalking.
- Developing, training, or expanding specialized units of law enforcement officers and prosecutors that target violence against women.
- Developing and implementing police and prosecution policies, protocols, orders, and services specifically dedicated to preventing, identifying, and responding to violent crimes against women.
- Developing, installing, or expanding data collection and communication systems to identify and track arrests, protection orders, violations of protection orders, prosecutions, and convictions for violent crimes against women.
- Developing, enlarging, or strengthening victim service programs; developing or improving delivery of victim services to racial, cultural, ethnic, and language minorities; providing specialized family violence advocates in courts where a significant number of protection orders are granted; increasing reporting and reducing dismissal rates for cases involving violent crimes against women.
- Developing, enlarging, or strengthening programs to address stalking.
- Developing or strengthening programs to assist Indian Tribes in addressing violent crimes against women.

The Justice Department's Violence Against Women Office administers the STOP grants program according a formula established in the law. Under that formula, four percent of STOP funds are reserved for grants to Indian tribal governments, each state receives a base amount of \$500,000, and remaining funds are distributed to each state based on population. Each state must allocate at least 25 percent of its STOP funds to support law enforcement, 25 percent for prosecution, and 25 percent to nonprofit, non-

governmental victim services programs.<sup>63</sup> The rest is allocated at the state's discretion for purposes established in the Act.

What kinds of programs do STOP grants actually fund? The following examples highlight just a few of the ways that STOP funds have made an impact across the country:

- In Utah, the Coalition of Advocates for Utah Survivors' Empowerment used STOP funds to develop a statewide network of both individuals and organizations who provide services to sexual violence victims. This Coalition has standardized protocols for sexual assault forensic exams and helped develop best practices for law enforcement investigating sexual assault.<sup>64</sup>
- In 1996, Delaware, using Violence Against Women Act funding, started a statewide law enforcement training program. Police officers, emergency dispatchers and probation officers statewide are receiving specialized, uniform training on how to better respond to and coordinate services for victims of family violence. More than 1,000 police officers have received this training to date.<sup>65</sup>
- Durham, North Carolina used STOP funds to equip its officers with Polaroid cameras, voice-activated tape recorders, and hand-held video cameras to collect as much evidence as possible at the scene of family violence calls.<sup>66</sup>
- In Indiana, police are beginning to use state-of-the-art digital cameras, which produce high quality images that can be of even greater assistance to help

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<sup>63</sup> Tribal governments that do not have law enforcement or prosecution components are not required to allocate funds to these areas. Where nonprofit, nongovernmental victim services do not exist within the jurisdiction of the tribal government, 25 percent of the programmatic funds may be allocated to a tribal government victim services agency.

<sup>64</sup> The Urban Institute, *1999 Evaluation of the STOP Formula Grants Under the Violence Against Women Act* [hereafter, "Urban Institute 1999 STOP Grants Report"], at 8.

<sup>65</sup> Training is coordinated by the Delaware Domestic Violence Coordinating Council and is funded through the Violence Against Women Act.

<sup>66</sup> Center for Effective Public Policy, *Successes and Challenges in Ending Family Violence: A Look at Ten Jurisdictions Assisted by the Violence Against Women Grants Office*, Dec. 1998.

authorities intervene and document domestic violence incidents. Every officer in domestic violence units is equipped with either a digital or traditional camera.

- In Salem, Massachusetts, police cars are equipped with laptop computers for officers to write reports and take victims' statements at the scene rather than making the victims go to the police station. Officers in Salem have also been provided with pocket-sized cards which set forth a protocol on how to properly intervene on family violence calls.<sup>67</sup>
- In Niagra County, New York, the Sheriff's Department used STOP funds to create a nine-agency task force, made up of members of the district attorney's office, law enforcement, victim services, the YWCA, rape crisis centers and social services. This task force implemented training for law enforcement, victim services and prosecutors on family violence.<sup>68</sup>
- In Kansas, STOP grants have funded a new Police Response Advocacy Program which allows civilian domestic violence advocates to ride with police when they respond to domestic violence calls in Riley County. The advocates offer sensitive victim services at the crime scene. A new Domestic Violence Task Force Coordinator also works directly with local police to track domestic violence cases and their outcomes. The Coordinator prepares reports on the cases and discusses them with county prosecutors, court personnel, probation officers and other task force members to ensure these cases are handled appropriately.
- Through STOP grants, prosecutors are working closely with victim advocates, making themselves available to the victims of family violence to answer questions as the case proceeds. Prosecutors are also getting involved in training officers, victim advocates and other groups. And, significantly, as a result of this training and support to the law enforcement community, prosecutors are both dismissing fewer family violence cases and increasing their conviction rates.<sup>69</sup>
- In Hawaii, a Women's Financial Resource Center has been established to provide skills and training for women to become financially independent after leaving a dependent, abusive situation.

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<sup>67</sup> *Id.*

<sup>68</sup> Urban Institute 1999 STOP Grants Report at 40.

<sup>69</sup> Center for Effective Public Policy, *Successes and Challenges in Ending Family Violence*.



- A special focus of the STOP grant program is combating violence against Native American Women. The purpose of these grants is to develop and strengthen tribal law enforcement and prosecutorial strategies to combat violent crimes against Indian women, as well as develop and strengthen victim services. The program requires tribal governments to implement a coordinated and integrated approach to reduce violent crimes against Native American women and enhance their safety. Since the program began in fiscal year 1995, the Violence Against Women Office has awarded 241 grants totaling \$21.1 million. Including all grant programs administered by the Violence Against Women Office, more than \$34 million has been awarded to 142 Indian tribal governments and organizations, serving 281 native communities.

STOP grants have helped communities take forceful steps toward helping and supporting victims make their way through the criminal justice system and receive services.<sup>70</sup> As the 1999 evaluation of the STOP formula grants by the Urban Institute reports, it is clear that STOP funds have enormously helped establish and expand programs in law enforcement, prosecution, and victim services and that programs funded by STOP provide victims with critical resources to which they would otherwise not have had access.<sup>71</sup> State STOP administrators unanimously agree that STOP grant money is achieving important things in their community.<sup>72</sup> Grantees report that services for women victims of violence have improved significantly in their community as a direct result of STOP funding.<sup>73</sup> In fact, many of the grant recipients reported that their work in reducing violence against women could not have been done without

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<sup>70</sup> Urban Institute 1999 STOP Grants Report at 55.

<sup>71</sup> *Id.* at 58.

<sup>72</sup> *Id.* at 63.

<sup>73</sup> *Id.* at 55.

STOP.<sup>74</sup> Simply put, without STOP funds, many programs created to help women victims of violence such as those just described would not exist.<sup>75</sup>

**What the Violence Against Women Act II Does -- Continues and Enhances the STOP Grant Program:** Since the STOP grant program began in fiscal year 1995, the Violence Against Women Office has awarded grants totaling nearly \$550 million to all 50 states, the District of Columbia, and five territories. The proposed reauthorization is \$555 million over three years: \$184, \$185, and \$186 million, respectively, for fiscal years 2001 through 2003. The new bill would preserve the allocations of 25 percent of these funds each to police and to prosecutors, but would increase grants to victim services to 30 percent. It also would add state and local courts expressly as eligible recipients for 10 percent, increase the base amount states receive to \$550,000 from \$500,000, increase the share reserved for Indian tribes from four to five percent, and allow states to reallocate funds not spent after two years.<sup>76</sup>

The Violence Against Women Act also created special statewide private nonprofit resource centers, called state domestic violence coalitions, and a national resource center to reinforce and support the work on local, state and federal levels. These coalitions facilitate statewide planning, public awareness and community education, give technical support to state agencies and organizations, and often provide direct services to victims of family violence and their families. To provide additional support for these important organizations, the Violence Against Women Act II also

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<sup>74</sup> *Id.*

<sup>75</sup> *Id.* at 58.

<sup>76</sup> The Urban Institute's 1999 evaluation of the STOP Formula Grants noted that because of lag time in getting programs off the ground, the window of two-year funding was often too short.

reserves two percent of STOP grant funding for state domestic violence and sexual assault coalitions.

### **Assistance to Victims**

#### **Education and Prevention Grants To Reduce Sexual Assaults Against Women**

**Progress to Date:** Under the Rape and Family Violence Education Program created under the Violence Against Women Act, states may receive grants for rape prevention and education programs to be conducted by rape crisis centers or similar nonprofit entities. The purpose of these grants is to allow states to design education programs that meet the needs of their own communities. Examples of activities funded by these grants include:

- In Alabama, rape prevention education funds were used to develop a community educational awareness system in communities not served by an existing rape crisis center. Through this funding, 95 programs related to education about rape prevention were held with 4,308 persons attending. In the fall of 1998, the state kicked off a statewide media campaign to educate about rape.<sup>77</sup>
- Michigan provided support to community-based organizations to conduct rape and sexual assault prevention programs for adolescents aged 12-18. These programs are designed to increase the awareness and prevention skills of these adolescents and young adults.<sup>78</sup>
- California has used rape prevention education funding to help fund the California Coalition Against Sexual Assault. This group has developed a rape prevention package to be used in elementary schools, middle schools and high schools. It includes information such as guides to curriculum and activities and

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<sup>77</sup> U.S. Dept. of Health and Human Services, "Annual Activity Progress by HSO/State for FY 1998."

<sup>78</sup> U.S. Dept. of Health and Human Services, "Michigan 1998 PHHS Block Grant Application – HP 2000."

is designed to raise awareness of and prevent rape, and also to increase knowledge about violence in relationships with peers.<sup>79</sup>

### **What the Violence Against Women Act II Does -- Continues and Extends**

**Rape and Sexual Assault Prevention and Education Efforts:** The need for these education programs is evident from the terrible statistics, already noted above, that it is children who are often the targets of these violent crimes: children ages 12-15 are being raped or sexually assaulted at four times the rate of persons aged 50 or older and young adults ages 16-24 are being raped or sexually assaulted at a rate five times that of persons aged 50 or older.<sup>80</sup> The Violence Against Women Act II would continue and expand the rape prevention education program by expanding it to include college students, establishing a National Resource Center on Sexual Assault through the Centers for Disease Control and Prevention in the Department of Health and Human Services, and providing direct funding for state sexual assault coalitions to engage in continued prevention and education efforts directed at the problem of rape and sexual assault. The proposed reauthorization is \$175 million over three years: \$55 million for fiscal year 2001 and \$60 million per year for fiscal years 2002 and 2003.

### **Youth Education Model Programs**

**Progress to Date:** In passing the original Violence Against Women Act, Congress recognized that a basic lack of awareness and understanding of family violence existed among children. The Act therefore required the Department of Health and Human Services to select model programs from across the nation to serve as examples of appropriate and effective strategies for educating youth on this issue. The

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<sup>79</sup> U.S. Dept. of Health and Human Services, Annual Activity Progress by HSO/State for FY 1998.

<sup>80</sup> 1998 National Crime Victimization Survey 1998 at 4.

Department of Health and Human Services, in consultation with the Department of Education, submitted a report to Congress on Youth Education and Domestic Violence Model Programs. The report identified the five most promising education programs out of the forty-six evaluated. Two examples are:

- “Choices and Change: Challenging the Use of Violence Among Children and Youth,” designed by the Boulder Country Safehouse in Boulder, Colorado, teaches children in grades 1-5 about staying safe and what to do when families fight.
- The Teen Dating Violence Prevention and Intervention Program in the Massachusetts Department of Education teaches teenagers how to avoid dating-related violence and gives safe intervention strategies.

An expert panel reviewed the Report to Congress and concluded that we need more schools to address the issue of family violence and that schools should have the appropriate curricula to do this.<sup>81</sup>

**What the Violence Against Women Act II Does -- Uses the Model Programs to Expand Education of Children:** The Violence Against Women Act II would create a new grant program to develop and provide educational programs on recognizing and preventing family violence appropriate for elementary schools, middle schools, secondary schools and institutions of higher education. It builds upon the model programs identified under the original Act by providing funds for organizations to implement these model programs, as well as other programs appropriately targeted to the age level of the youth to be reached. This funding would also support a pilot program, based on the model programs, suitable for colleges and universities. The proposed authorization is \$5.4 million over two years: \$2.7 million annually for fiscal

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<sup>81</sup> U.S. Department of Health and Human Services, Report to Congress, Youth Education and Domestic Violence Model Programs, at 71.

years 2001 and 2002, and an additional \$400,000 in fiscal year 2001 for a report on model programs for college students.

### **Runaway and Homeless Youth**

**Progress to Date:** The Violence Against Women Act recognized the connection between violence in the home and runaway youth by providing grants for street-based outreach and education to help prevent sexual abuse and exploitation for these youth. The Street Outreach Program<sup>82</sup> awards grants to nonprofit agencies to provide services to runaway or homeless youth, including emergency shelters, survival aid, crisis intervention, street-based education and outreach, and treatment and counseling with special emphasis on services to women, who are particularly at risk of or have been subjected to sexual abuse or exploitation.

**What the Violence Against Women Act II Does -- Extends This Program For Runaway and Homeless Youth:** The Violence Against Women Act II would extend funding for programs to reduce sexual abuse of runaway, homeless and street youth. The proposed authorization is \$66 million for three years: \$21 million for fiscal year 2001, \$22 million for fiscal year 2002, and \$23 million for fiscal year 2003.

### **Federal Victim Counselors**

**Progress to Date:** Through the Federal Victim Counselors grant program created in the Violence Against Women Act, U.S. Attorneys receive grants to appoint counselors for victims and witnesses counselors in federal prosecutions of sex crimes

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<sup>82</sup> Its official name is the Education and Prevention Services to Reduce Sexual Abuse of Runaway, Homeless and Street Youth Program.

and family violence crimes. To date, four states and the District of Columbia have used this funding to hire Victim-Witness Coordinators.<sup>83</sup>

**What the Violence Against Women Act II Does -- Extends The Victim**

**Counselor Program:** The Violence Against Women Act would reauthorize this program at \$3 million over three years: \$1 million annually for fiscal years 2001 through 2003.

**Campus Violence**

**Progress to Date:** The Violence Against Women Act authorized a study by the Department of Justice on sexual assaults on campuses. Funding for this study was appropriated in fiscal year 1997. The study will reportedly soon be completed.

**What the Violence Against Women Act II Does -- Expands Education and Prevention Grant Funding to Colleges and Universities:** The Higher Education Amendments of 1998 authorized grants to encourage institutions of higher education to adopt comprehensive, coordinated responses to violent crime against women on campuses. The Violence Against Women Act II would further strengthen the Higher Education Act Amendments by making explicit that institutions of higher education are eligible for grants under the sexual assault and rape education and prevention grant programs and that the Youth Education Model program will be expanded to college students. (See “Youth Education Model Programs” and “Education and Prevention Grants to Reduce Sexual Assault Against Women” above.) In addition, the Violence Against Women Act II would create a new grant program administered by the Department of Justice for model programs related to appropriate and effective

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<sup>83</sup> The states are Arizona, New Mexico, South Dakota, and Montana.

responses to victims of family violence and sexual assault. These grants would target individuals likely to come into contact with victims as part of their jobs, including campus personnel. (See “Enhancing Effective Responses to Victims of Violence Against Women” below.)

### **Sex Offender Treatment Program**

**Progress to Date:** The Violence Against Women Act required that the Attorney General compile information about sex offender treatment programs and then ensure that this information is available for released sex offenders. In response, the Federal Bureau of Prisons in the U.S. Department of Justice adopted new procedures related to the release of inmates convicted of certain sexual offenses. All inmates assigned a “Sex Offender” Public Safety Factor must receive, before release, information of treatment available and the facility’s address and phone number.<sup>84</sup>

### **Public Transit and Public Parks**

**Progress to Date:** The Violence Against Women Act authorized grants to prevent crimes in national parks and public parks for such improvements as increased security, better lighting, camera surveillance, and security phones. These grants were never funded. The Violence Against Women Act also authorized grants to states and local agencies to study ways to reduce violent crime against women in public transit by improving the design of these systems and providing the increased security features just described. These grants were never funded.<sup>85</sup>

## **C. Making Homes Safer For Women**

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<sup>84</sup> See U.S. Department of Justice, Federal Bureau of Prisons, Change Notice 5141.02 dated December 14, 1998.

<sup>85</sup> The Violence Against Women Act II does not address these programs.



## **Promoting Arrests of Abusive Spouses**

**Progress to Date:** To encourage states to treat violence against women as a serious crime, the Violence Against Women Act created Pro-Arrest grants that allow states to actively work to increase the number of arrests of abusers. The Pro-Arrest program seeks to make abusers accountable for their actions by treating them as the criminals they are, and in doing so, make women safer. Grants made under this program must be used for: programs and policies that mandate or encourage police officers to arrest abusers who commit acts of violence or violate protection orders; developing ways to track these cases within and across jurisdictions, particularly on computer; centralizing and coordinating enforcement, prosecution, probation, parole, and court actions on cases involving violence against women; and educating judges and other court personnel in federal, state, and tribal courts on how to effectively handle such cases.

To be eligible for Pro-Arrest funding, a state, local, or tribal government must certify that its laws or policies encourage or mandate arrest of abusers, discourage dual arrests of abusers and their victims, prohibit issuance of mutual protection orders absent detailed findings of fact by a court that both were aggressors and neither acted in self defense, and not require that the victim bear any costs related to filing criminal charges or serving a protection order against an abuser.

Since 1996, the first year this program received funding, the Justice Department has made approximately 300 grants totaling over \$136 million. Since this program began, the amount of funds sought by grant applicants has far exceeded the money authorized or appropriated for it. For example, in fiscal year 1998 the Pro-Arrest program was appropriated \$59 million. However, the Justice Department received

almost 300 applications requesting \$151 million -- nearly three times that amount. Ultimately, 115 awards totaling \$56.6 million were made that year.<sup>86</sup>

### **What the Violence Against Women Act II Does -- Extends and Strengthens**

**Pro-Arrest Grants:** The Violence Against Women Act II would extend the Pro-Arrest direct grant program, thereby strengthening support for pro-arrest policies and enforcement of protection orders while enhancing the role of courts. As the section in this report on full faith and credit describes, it also would help states improve full enforcement of protection orders by making full faith and credit enforcement of protection orders a funding priority, specifically authorizing technical assistance, making development or purchase of computerized communications and information collection systems and equipment a funding priority, and requiring a demonstrated full faith and credit policy as a condition of eligibility. The proposed authorization is \$195 million over three years: \$64, \$65, and \$66 million respectively for fiscal years 2001 through 2003.

### **Civil Legal Assistance Grants--Building An Army of Advocates**

**Progress to Date:** Although grant programs to fund civil legal assistance for victims of violence against women were not a part of the original Violence Against Women Act, the Justice Department has earmarked funds since fiscal year 1998 out of the total appropriated for STOP grants for this purpose. The Justice Department's civil legal assistance program is designed to increase access to legal services for victims of family violence, stalking and sexual assault by attorneys who are trained to know the law and to be sensitive to the unique dynamics of cases involving such violence. Justice Department guidelines for civil legal assistance grants require that the funds be used

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<sup>86</sup> Applications not funded in 1998 were considered for funding out of fiscal year 1999's appropriation of \$34 million and are to be made by the end of September 1999.

for direct legal services on behalf of victims directly related to the violence they have suffered. This includes legal proceedings related to protection orders, child support and custody or visitation, divorce or legal separation, and matters related to obtaining benefits or unemployment compensation. In the first year it was funded, \$12 million was set aside for civil legal assistance grants. Nearly 350 applications were received that year requesting \$80.7 million, nearly six times the amount that was available. The Justice Department awarded 57 grants totaling \$11.2 million. In fiscal year 1999, \$23 million in STOP money was earmarked for this purpose. Applications from the previous year that had not been funded were considered and an additional 94 grants totaling \$20.3 million have been funded to date.

**What the Violence Against Women Act II Does -- Establishes an Enhanced Grant Program to Fill the Civil Legal Assistance Gap:** A gap between programs seeking funding to provide victims with access to effective civil legal assistance and available funds clearly exists.<sup>87</sup> The Violence Against Women Act II would take steps to fill this gap by establishing an ongoing civil legal assistance program and authorizing funds for it. The goal of this program is to develop a skilled “corps” of attorneys who can effectively meet these women’s range of legal needs with quality services at affordable or no cost. Under this program, the Department of Justice would make grants to provide training and technical assistance to make civil legal assistance more available to more victims. The Violence Against Women Act II also would encourage collaborative efforts among various bar associations, victims services, and courts and would support cooperative efforts between victim advocacy groups and civil legal assistance providers to strengthen the range of legal assistance. This could

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<sup>87</sup> Women Empowerment Against Violence, Inc., a legal services provider to victims of domestic violence in Washington, D.C., has found that each client requires an average of 20 court visits because abusers often use the court system against their victims and because the client faces a range of issues requiring legal advice – like protection orders, custody proceedings, and divorce.

include on-site legal advocacy or legal assistance in places where victims of violence against women are likely to be, such as police departments, courthouses, public housing agencies, hospitals, community health clinics, and schools.

The Violence Against Women Act II would also fund the establishment of a database of programs and providers of civil legal assistance that would be available as part of the operation of the National Domestic Violence Hotline. This database would help victims get the assistance they need by linking callers up with qualified legal assistance providers in their community like bar associations, law firm pro bono programs, legal services programs, law school clinics, and other collaborative efforts that provide legal assistance. The proposed authorization is \$105 million over three years: \$34 million for fiscal year 2001; \$35 million for fiscal year 2002; and \$36 million for fiscal year 2003.

### **National Domestic Violence Hotline**

**Progress to Date:** The Violence Against Women Act provided funding to create a national toll-free hotline to provide information and assistance to victims of family violence. The National Domestic Violence Hotline is a project of the Texas Council on Family Violence and is based in Austin, Texas. It is a sophisticated toll-free number operation, staffed by trained individuals personally answering each call, who have access to computer databases to make referrals and assist victims in a variety of ways.<sup>88</sup> It operates 24 hours a day, seven days a week, provides services for the deaf, and can quickly provide a counselor who speaks English or Spanish. (There is also access to translators in 139 languages.) The Hotline fielded 73,540 calls in 1996, 95,562 calls in

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<sup>88</sup> The Hotline's toll-free number is 1-800-SAFE (7233); the number for assistance for deaf callers is 1-800-787-3224.

1997, and 109,339 calls in 1998 -- a nearly 33 percent increase in three years. In March 1999, it answered its 300,000<sup>th</sup> call and hit a new high of 10,531 calls during that month.

The Hotline staff provide callers with crisis intervention help, information about violence against women, and referrals to local services. While most callers are victims, family members or friends of the victims also call seeking help.<sup>89</sup> Independent evaluators of the Hotline's activities have highly praised its operations and activities.<sup>90</sup> Examples of types of calls to the Hotline and the help it gives include:<sup>91</sup>

- A young pregnant woman in Boston is hit by her husband and her three-year-old son tries to stop his father. The National Domestic Violence Hotline gives her local numbers to seek help.
- A Spanish-speaking woman in Arizona needs shelter for herself and her three children. She calls the Hotline, which then calls a shelter in Phoenix, connects the victim with a Spanish-speaking counselor, and provides directions to a shelter.
- A father in San Francisco calls to talk about his daughter who has not called him in three months. The daughter has moved to New Jersey and has an abusive boyfriend. The Hotline gives him the names and numbers of several programs in New Jersey and in San Francisco should she return home.

**What the Violence Against Women Act II Does -- Continues and Expands the National Domestic Violence Hotline:** The Violence Against Women Act II would increase and extend the Hotline's authorization to meet the growing demands on the

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<sup>89</sup> Pang Yin Fong, "Help's Just a Call Away," The New Straits Times, November 26, 1998.

<sup>90</sup> Macro International Inc., "An Evaluation of the National Domestic Violence Hotline Operations," supported under a grant from the Centers for Disease Control and Prevention (May 1998).

<sup>91</sup> Pang Yin Fong, "Help's Just a Call Away."

National Domestic Violence Hotline. It would extend the authorization through 2003, increase funding to reflect operating costs, add as a new responsibility providing information about how to obtain civil legal assistance referrals (described above), and require annual reports. The Violence Against Women Act II would authorize \$4 million over three years: \$2 million for fiscal year 2001; and \$1 million annually for fiscal years 2002 and 2003.

### **Shelters for Battered Women**

**Progress to Date:** To address the gap between the shelter space needed and the number of shelters that existed, the Violence Against Women Act more than tripled funding for shelters for victims of violence against women, to \$325 million, for already-existing programs at the Department of Health and Human Services. Through this program, states and Native American tribes receive funding to provide emergency shelters for family violence victims and their families. For example, Maryland received nearly \$3.75 million since 1996 for grants under this program that fund 14 shelters; California received nearly seven times that amount -- \$23.5 million -- for shelters and related services in the state.

Currently, the Violence Against Women Act funds 1,031 shelters and 82 safe houses located in all 50 states, the District of Columbia and Puerto Rico.<sup>92</sup> This number is a fraction of the total number of shelters across the country; unfortunately no reliable statistics as to that aggregate number currently exist. The National Domestic Violence Hotline, for example, lists 1,499 shelters providing direct service to victims (and 2,035 other service providers who provide referrals to shelters and other services) but this number is only a portion of the shelters nationwide -- some shelters across the country

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<sup>92</sup> U.S. Department of Health and Human Services, "Family Violence Prevention and Services Programs 1996-2000."

deliberately do not include themselves in the Hotline's referral database because they currently are so overtaxed with local calls and referrals that they could not handle the additional referrals they would receive through Hotline calls.<sup>93</sup>

The Violence Against Women Act has ensured that tens of thousands of women have been provided the shelter necessary to protect themselves and their children. However, with significantly increased awareness of domestic violence and the fact that more safe havens for victims now exist, the number of women seeking help from shelters is greater than ever before. As a result, a serious "shelter gap" still exists. For example:

- As noted earlier in this report, according to conservative estimates, over 250,000 women and children used shelters in 1997.<sup>94</sup>
- In Pennsylvania, shelters operated with funding under the Act housed 5,871 adults and 5,688 children in 1998, but 1,322 adults and 1,918 children were turned away because filled shelters could not accommodate them.<sup>95</sup>
- In Texas that same year, 11,872 adults and 15,188 children were given shelter. But, during that same year, 3,796 adults and an unknown number of children were denied shelter in Texas due to lack of space.<sup>96</sup>
- In Alabama, 49 of the state's 67 counties do not have shelters at all.<sup>97</sup>

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<sup>93</sup> Interview with National Domestic Violence Hotline staff (August 1999).

<sup>94</sup> Interview, Dept. of Health and Human Services, Administration for Children and Families staff (April 1999). The number of women is 132,328 and of children is 130,676, drawn from 1997 state reports. Five states did not report numbers; two others reporting "clients" were omitted.

<sup>95</sup> Pennsylvania Coalition Against Domestic Violence, Service Statistics, FY 1998/99.

<sup>96</sup> Texas Council on Domestic Violence (August 1999).

<sup>97</sup> National Network To End Domestic Violence, *A Snapshot From the States* (Feb. 1999).

- From 1990 to 1996, Michigan shelters were forced to turn away more than 18,000 family violence victims.<sup>98</sup>
- In 1996, Missouri shelters had to turn away more than 12,000 women and children.<sup>99</sup>
- In Arizona, nearly 17,000 were turned away from that state's shelters from July 1997 through June 1998.<sup>100</sup>
- Approximately 45 percent of homeless women are reportedly fleeing domestic violence.<sup>101</sup>

Although nationwide figures do not exist, it is plain that hundreds of thousands of women and children are turned away from shelters each year.

In addition to housing, a woman and her children at a shelter may receive counseling, assistance with finding a job and more permanent housing, medical care and legal support (such as getting a protection order). A snapshot of shelters and shelter funding, as reported by providers in the states, shows:

- In 1998, Delaware opened one new shelter and expanded the state's two existing shelters, providing additional bed space to serve 200 more battered women and children every year.
- Oregon has opened three new shelters, increasing bed space for battered women and children by 50 new beds. Oregon sheltered nearly 3,000 women and an additional 3000 children in 1997-98.

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<sup>98</sup> *Id.*

<sup>99</sup> *Id.*

<sup>100</sup> Arizona Coalition Against Domestic Violence (August 1999).

<sup>101</sup> United States Conference of Mayors, *A Status Report on Hunger and Homelessness in America's Cities* (1997).



- Arizona provided shelter to nearly 24,000 women and children from July 1, 1997-June 30, 1998. Among Arizona women seeking shelter services, half were between the ages of 18 to 44.<sup>102</sup>
- North Carolina has opened five new shelters in the past five years. Since 1992, the number of shelter cases has soared 96 percent. The number of primary victims of abuse seeking shelter has increased 78 percent. The number of “secondary” victims seeking shelter, such as children, has increased 84 percent.
- In Vermont, shelters have provided 27 percent more services as a result of increased outreach and resources available in large part by Violence Against Women Act funding.
- In Nevada, shelter beds have doubled over the last five years, including opening three new shelters and the expansion of others. Nevada shelters assisted nearly 1,000 more battered women and children over the last five years.

**What the Violence Against Women Act II Would Do -- Continues and Expands Funding for Shelters:** Though the Violence Against Women Act has provided shelter for hundreds of thousands of women and their children, the unmet need for shelter remains significant. To close the “shelter-gap” and bring us closer to the day when all battered women and their children will be ensured a safe, secure haven when they need it most, the Violence Against Women Act II would help communities across the country provide shelter to many more victims of violence against women, and their children, who need it. The Violence Against Women Act’s shelter program was funded at \$76.8 million in fiscal year 1998 and \$88.8 million in fiscal year 1999. To increase our commitment to the important goal of providing shelter where and when it is needed, the Violence Against Women Act II would authorize \$500 million for this program over three years -- \$150 million for fiscal year 2001 and \$175 annually for fiscal years 2002 and 2003.

### **Confidentiality of Addresses**

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<sup>102</sup> Arizona Coalition Against Domestic Violence (August 1999).

**Progress to Date:** The Violence Against Women Act directed the Attorney General to conduct a study of the various ways by which personal information of victims of family violence, sexual abuse and stalking become available to the public. That report was issued in November of 1995.<sup>103</sup> As the report relates, abusers persistently pursue their victims, often following them to work, for example.<sup>104</sup> This behavior increases when the victim tries to separate herself from her abuser;<sup>105</sup> women are at greatest risk of severe injury or death at this point.<sup>106</sup> The report makes recommendations to states, agencies, businesses, victims and advocates on ways to keep personal information from falling into an abuser's hands. As noted earlier, states such as California and Florida have followed this lead by adopting laws to protect the identity of these victims.

### **Community Prevention**

**Progress to Date:** The Violence Against Women Act authorized the Department of Health and Human Services to award grants to nonprofit agencies to establish projects in local communities to coordinate intervention and prevention activities to stop family violence. It funded six coordinated community demonstration projects, three in rural communities and three in larger communities.<sup>107</sup> It also funded ten

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<sup>103</sup> The National Criminal Justice Association, "Confidentiality of Domestic Violence Victims' Addresses," supported under award #95-IJ-CX-0009 from the National Institute of Justice, Office of Justice Programs, U.S. Department of Justice, November 1995.

<sup>104</sup> *Id.* at 1.

<sup>105</sup> *Id.*

<sup>106</sup> Mona Harrington, *Women Lawyers: Rewriting the Rules* (1994) at 221.

<sup>107</sup> These grants went to Chatham Hospital, NC; Maine Ambulatory Care Coalition; Sauk County Task Force on Domestic Abuse/Hope House, WI; Northeastern University's School of Law and College of Nursing, MA; Spokane County Domestic Violence Consortium; and

community-based prevention projects, three of which are in California, to develop ways to prevent family violence before it starts.<sup>108</sup>

**What the Violence Against Women Act II Does -- Extend this Program to Support Community Prevention:** The Violence Against Women Act II would reauthorize this grant program to continue and extend community-based prevention programs to prevent violence against women at \$18 million over three years: \$5 million for fiscal year 2001; \$6 million for fiscal year 2002; and \$7 million for fiscal year 2003.

### **Rural Domestic Violence and Child Abuse Enforcement Assistance**

**Progress to Date:** The Rural Domestic Violence and Child Victimization Enforcement Grant Program provided a unique opportunity for rural jurisdictions to address the needs of law enforcement, prosecution agencies, the courts, and nonprofit non-governmental victim services agencies that respond to family violence and child abuse cases. This grant program helps states and local governments focus on problems peculiar to rural areas, such as fewer law enforcement resources, a shortage of victim services, lack of privacy in small communities, geographic isolation, cultural pressures to keep family matters private, and an inability to keep locations of shelters confidential.

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Women's Resource and Shelter Space, OR.

<sup>108</sup> These projects are the Albuquerque Area Indian Health Board, NM; La Clinica de la Raza, Fruitvale Health Project, Oakland, CA; Our House, Inc., Greenville, MI; Tacoma Intimate Partner Violence Prevention Project, Tacoma, WA; The Women's Alcoholism Center, San Francisco, CA; Center for Battered Women, Austin, TX; Mental Health Center of Boulder County, CO; Metropolitan Family Services, Chicago, IL; Planned Parenthood Mar Monte-East, Sacramento, CA; and Women Against Abuse, Inc., Philadelphia, PA.

Grants under this program have helped rural communities forge partnerships among law enforcement agencies, courts, community organizations, health and social service providers, and child welfare services. They have created prevention and education programs and other innovative strategies to address the unique challenges of preventing and responding to family violence and child victimization in rural areas. For example, in Vermont, with Rural Domestic Violence funding, a collaborative project of victim service agencies, state child protection agencies and supervised visitation centers served more than 4,000 children and their mothers in rural areas who experienced or were exposed to domestic violence.

**What the Violence Against Women Act II Does -- Extends This Program's Focus on Addressing Violence Against Women in Rural Communities:** Since 1996, the Violence Against Women Office has awarded over \$31.4 million to 108 grantees under this program. The Violence Against Women Act II would extend this program that focuses on problems particular to victims of violence against women in rural areas at an authorization level of \$105 million over three years: \$34 million for fiscal year 2001, \$35 million for fiscal year 2002, and \$36 million for fiscal year 2003.

### **Protecting Battered Immigrant Women**

**Progress to Date:** Family violence may be even more prevalent among immigrant women than among U.S. citizens.<sup>109</sup> Immigrants who are victims of violence against women face unique legal, social and economic problems. To prevent these women from reporting family violence, men may threaten to take their children away from the United States or fail to file papers to legalize their wives' immigration

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<sup>109</sup> Anderson, Michelle J., *A License to Abuse: The Impact of Conditional Status on Female Immigrants*, 102 Yale L. J. 1401 (1993).

status.<sup>110</sup> This can mean that immigrant women are confronted with an insidious choice -- stay with their abusers or depart the country having to leave their children behind with the abuser. Immigrant women may suffer more abuse than U.S. citizens due to cultural differences which may prevent them from seeking help or because they are less familiar with and have less access to legal and social services. In addition, immigrant abusers and victims may believe that the penalties and protections of the U.S. legal system do not apply to them.<sup>111</sup>

The Violence Against Women Act changed then-existing law so women whose ability to stay in the country was dependent on their husbands' immigration status would not have make such a choice. It allowed abused immigrant women to petition on their own behalf to remain in this country, fixing the anomaly in the immigration laws that forced women to choose between staying in their abusive relationships or risk deportation because their husbands, on whose residency status they relied, refused to file petitions on their behalf. The Justice Department reports that from 1997 through mid-August of 1999, 8,080 self-petitions had been filed under these provisions. Of these, 4,323 were approved; 1,694 were denied; and 2,063 are pending.

In addition, recognizing that the number of battered immigrant, migrant and refugee women who receive services is disproportionately small, the Department of Health and Human Services provides specific grants to provide support services for these women who may be overcoming cultural and communications barriers. In San Francisco, for example, a grant has enabled links to be established between family

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<sup>110</sup> Volpp, Leti, *Working With Battered Immigrant Women: A Handbook to Make Services Accessible*, Family Violence Prevention Fund, 1995.

<sup>111</sup> Orloff et al., *With No Place to Turn: Improving Advocacy for Battered Immigrant Women*, 29 Family Law Quarterly (Summer 1995) at 313.

violence advocates and organizations working for immigrants. And in Boston, pro-bono attorneys are trained specially on how to serve immigrant battered women.

**What the Violence Against Women Act II Does -- Revises Existing Provisions to Ensure Immigrant Victims of Violence Against Women are Protected:** The Violence Against Women Act II would change the law to allow immigrant victims of family violence who self-petition for residency to remain in the United States while awaiting permanent resident status.

### **New Data and Research on Violence Against Women**

In enacting the Violence Against Women Act, Congress recognized that we had little data on the prevalence of family violence. Just as family violence had up to that time been largely ignored, so too was data not collected on this crime. Good information on the rates of sexual and family violence is extremely important in determining the pervasiveness of the problem and making good policy decisions. It is also the first step toward educating the public about the seriousness of violence against women. The Violence Against Women Act set a new standard in research and gathering data on violence against women. Not only did the Act fund research that has taught us much about this issue, but it also created ways to share this new knowledge.

### **Research Agenda**

**Progress to Date:** At the direction of the Violence Against Women Act, the National Academy of Sciences produced a book titled Understanding Violence Against Women.<sup>112</sup> This landmark report set a comprehensive research agenda for learning about the prevalence, nature, and causes of violence against women and prevention

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<sup>112</sup> Nancy A. Crowell and Ann W. Burgess, ed., *Understanding Violence Against Women*, National Academy Press (1996).

and intervention measures by reviewing research on intimate partner violence, rape, sexual assault and stalking. This study in turn spawned further research. For example, the National Institute of Justice and the CDC are working on a 5-year research agenda using the guideposts created by the report.

### **State Databases**

**Progress to Date:** The Act instructed the Department of Justice to identify ways that states could centralize the collection of information on the incidence of family and sexual violence. In July 1996, the Department of Justice issued a report to Congress called “Domestic and Sexual Violence Data Collection.” This report found that some states were not collecting information on family violence or sexual assault offenses and a wide variation of the definition of these offenses existed. Since the report’s publication, all states now collect this information.

### **Reports on Battered Women Syndrome**

**Progress to Date:** The Act called for a report on battered women’s syndrome, because the criminal justice system simply did not know how to handle cases where abused women charged with crimes against their abuser introduced defenses of self-defense or insanity or offered evidence of their abuse in order to reduce the severity of their sentence. In 1996, the Department of Justice and the Department of Health and Human Services jointly issued three reports on the validity and use of evidence concerning battering in criminal trials, cases in which evidence of battering was used, and an assessment of the effects of evidence of battered women’s syndrome in criminal trials. These reports clarify for judges, prosecutors and defense attorneys that the abuse can be relevant to these cases and may shed light on the behavior and experience of a victim.

### **Recordkeeping**

**Progress to Date:** The Violence Against Women Act required the Attorney General to issue a report on the record keeping of criminal complaints involving family violence. The National Institute of Justice's July 1996 report on "Domestic and Sexual Violence Data Collection" highlighted the need for aggregate statistics on incidences of family violence. The report found, for example, that the federal government and a majority of states were collecting statistics annually on family violence and sexual violence, but a wide disparity existed in how offenses were defined and how that data was collected.

**What the Violence Against Women Act II Does -- Funds New Areas of Research on Violence Against Women:** There are still gaps in our knowledge about and understanding of violence against women. Nearly every report produced at the direction of the Violence Against Women Act concluded that further research was needed in the arena of violence against women. The research done under the original Act was only the first stage of what needs to be an ongoing process. A key area of funding under the Violence Against Women Act II is to provide for more education, research and training to build on the successes of the original Act. In this way, we will not only get more help to more victims, but we make it possible to take more steps to prevent this violence from occurring in the first place. These include:

#### **Prevention Research to Combat Violence Against Women**

The Violence Against Women Act II would require the Secretary of the Department of Health and Human Services and the Attorney General to jointly coordinate grants to research violent behavior against women. These grants would, among other things, study the risk factors for sexual and intimate partner violence and evaluate the effective ways to screen for family violence in the health care system (like when a women sees her primary care physician or gynecologist). These grants would also be used to address gaps in research, including a measurement of violence against



women in underserved populations and an examination of the prevalence and dynamics of emotional and psychological abuse on women. They include:

- A study by the United States Sentencing Commission on family violence. The “Analysis of Penalties for Federal Rape Cases” required by the Violence Against Women Act helped decrease the disparity between sentencing in stranger rape and rape by an intimate by reporting on the current status of the disparity. This new study would report on homicides by intimates and family violence.
- Grants to be made on gathering data on the experiences of minors and adults, who have become pregnant as a result of sexual assault, when they deal with state health care, judicial or social services systems.
- A national study by the Attorney General, in consultation with experts and educators on rape and sexual assault, to examine the status of the law on rape and sexual assault and the effectiveness of the implementation of the laws in addressing these crimes.
- Other studies to address gaps in current research and knowledge about violence against women, including women in communities that do not have extensive services for victims of such violence.

The proposed authorization is \$11.1 million over two years: \$6 million for fiscal year 2001 and \$5.1 million for fiscal year 2002 for new research and studies on violence against women to increase our ability to prevent this violence from occurring in the future.

### **Review of Child Custody and Parental Kidnaping Laws**

In a child custody case, it is not always clear how and if the presence of family violence in a family affects the custody of a child. The Violence Against Women Act II would require the Attorney General to study federal and state child custody laws and the effects of these laws on child custody cases in which family violence exists in the

family, and submit recommendations on model state laws. The proposed authorization is \$200,000 annually for fiscal years 2001 and 2002.

#### **D. Equal Justice for Women in the Courts**

##### **The Civil Rights Remedy**

The Violence Against Women Act created a new federal civil right “to be free from crimes of violence motivated by gender” and a federal civil rights cause of action for those who have been deprived of that right.<sup>113</sup> This remedy is based on findings made by Congress, after a series of detailed fact-finding hearings, that federal and state laws provided inadequate remedies for the victims of violence motivated by gender bias. The provision permits the victim of a gender-motivated crime of violence to sue her attacker for damages or other relief in federal or state court. It defines a “crime of violence” as a crime against a person that would constitute a federal or state felony; thus, only the most serious violent crimes are covered. For the crime of violence to be “motivated by gender,” the crime must have been committed “because of gender or on the basis of gender, and due, at least in part, to an animus based on the victim’s gender.”

The civil rights remedy has come under some judicial attack and its constitutionality may soon be considered by the Supreme Court. Over 50 cases asserting claims under the Violence Against Women Act’s private cause of action have been filed in federal and state court and the constitutionality of the statute has been challenged in more than a dozen of those cases. One court, the U.S. Court of Appeals for the Fourth Circuit (sitting en banc), ruled early in 1999 that the statute exceeded Congress’ authority under both the Commerce Clause and section 5 of the Fourteenth

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<sup>113</sup> Codified at 42 U.S.C. § 13981.

Amendment.<sup>114</sup> This case stands in marked contrast to the fifteen district court decisions and one state court decision upholding the constitutionality of the statute. Should the Supreme Court grant certiorari in the Fourth Circuit case, it will likely consider the constitutionality of the private cause of action in the coming year.

The private cause of action remains a cornerstone of the Violence Against Women Act; both law and good public policy support this invaluable tool for victims to vindicate the important right to be free from violent gender discrimination.

### **Enhancing the Role of Courts in Combating Violence Against Women**

**Progress to Date:** After encountering police officers and law enforcement personnel, court staff and judges are often the next point of contact for victims of violence against women in the criminal justice system. The treatment victims receive at this critical juncture can determine whether or not they will proceed with a claim against their abuser. All too often, women abused by their husbands, boyfriends, or former partners who turn to the courts for help find themselves further victimized by judicial systems that ignore or trivialize reports of family violence and child abuse. To train and educate judges in state and federal courts to increase awareness and sensitivity about crimes against women, the Act authorized more than \$1 million for the State Justice Institute and the federal courts, although the funds were never appropriated. It also encouraged the federal circuit courts of appeals to conduct gender bias studies, which all circuits did and on which they issued reports on the results. These reports were disseminated widely and revealed that gender discrimination in court systems across the country did exist. Although police and prosecutors have

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<sup>114</sup> See *Brzonkala v. Virginia Polytechnic Inst. & State Univ.*, 169 F.3d 820 (4th Cir. 1999) (en banc), *petition for cert. filed*, 68 U.S.L.W. 3021 (U.S. June 25, 1999) (No. 99-5), and *petition for cert. filed*, 68 U.S.L.W. 3021 (U.S. June 30, 1999) (No. 99-29).

dramatically changed in recent times how they deal with cases involving violence against women, the reports show that this has not occurred consistently with the judiciary. As a result, these reports initiated new ways to eradicate bias against women in our court systems.

**What the Violence Against Women Act II Does -- Takes Steps To More Actively Engage Courts in Helping Victims of Violence Against Women:** The Violence Against Women Act II seeks to engage state courts more actively in fighting violence against women. It would target funds to be used by the courts for the training and education of court personnel on issues such as how to deal in a court setting with victims of violence against women and would improve how information on cases is kept and shared with police, prosecutors and other court jurisdictions. It would amend STOP and Pro-Arrest grants to make state and local courts expressly eligible for funding, dedicating 10 percent of state STOP grants for grants to courts. It would also reauthorize funding to the State Justice Institute (\$600,000 each year for fiscal years 2001 through 2003) for the development, testing and dissemination of model court training programs for state courts, including training related to victims who are disabled. In addition, it would instruct the Federal Judicial Center to adapt education programs used for state courts, if applicable, in training new federal judges.

**Strengthening and Revising Court Procedures to Encourage Women to Prosecute Their Attackers**

**Progress to Date:** As part of the Violence Against Women Act's enhancement of ways for victims of violence against women to obtain justice against their attackers, the Act made procedural changes to encourage, rather than deter, women to pursue criminal charges. These include:

Rape shield law: The Violence Against Women Act amended Federal Rule of Evidence 412 to extend “rape shield law” protections to civil and criminal cases to bar embarrassing and irrelevant inquiries into a victim’s sexual history at trial. As revised, Rule 412 prohibits use of evidence involving claimed sexual misconduct offered to show other sexual behavior or predisposition of the victim except in certain circumstances. Those exceptions include use of such evidence (1) to show another person was guilty, (2) to show specific sexual behavior between the victim and the accused to prove consent, or (3) where it would be substantially unfair to exclude it.

Payment for rape exams and for testing for sexually transmitted diseases: The Act required, as a condition for STOP grant eligibility, that states certify that they provide forensic medical exams for sexual assault victims free of charge or reimburse victims for these costs. The Act also expanded existing federal law<sup>115</sup> to provide for payment of costs for testing and related counseling for victims of sex offenses for sexually transmitted diseases as a result of the assault. Further, it allowed for testing of defendants for sexually transmitted diseases under certain conditions, including whether the individual to be tested has been charged or arrested (and probable cause shown), with the results mandated to be kept confidential.

Victims of violence against women cannot be assessed costs for filing criminal charges against their attackers or for serving protection orders: States must certify that victims are not assessed such charges as a condition of eligibility for STOP grants.

Authorizes pretrial detention of defendant in federal sex offense and interstate domestic violence cases: The Act amended existing federal pretrial detention

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<sup>115</sup> Codified at 42 U.S.C. § 10607(c)(7).

provisions<sup>116</sup> to include these cases in the class of those for which defendants can be held prior to trial.

Victims of violence against women have the right to be heard at pretrial release hearings: Victims are provided the right to be heard at a defendant's pretrial release hearing regarding any danger posed by the defendant that may require detention.

Mandatory restitution for victims of sex crimes and interstate domestic violence and enforcement of restitution orders through suspension of federal benefits to offenders: The Act also added sections 2248 and 2259 to Title 18, the federal criminal code, to mandate that victims of sex crimes receive restitution for their losses (including medical services, therapy or rehabilitation, needed transportation, temporary housing, child care, lost income, court costs and attorneys' fees). Before these provisions were added, orders of restitution in sex offense cases were optional and at the court's discretion. It also amended 18 U.S.C. § 3663(b) to allow victims to enforce restitution orders by suspending the federal benefits received by an abuser upon a written showing of delinquency in payment. Benefits that can be suspended include grants, contracts, loans, or licenses provided by a federal agency.

**What the Violence Against Women Act II Does -- Strengthens the Enhanced Procedures to Encourage Victims to Prosecute Their Attackers:** To supplement the set of enhanced judicial process procedures created under the Violence Against Women Act, the Violence Against Women Act II would improve the quality of forensic exams made available to victims under the original Act. The Violence Against Women Act II would establish a National Commission on Standards of Practice and Training for Sexual Assault Examinations. Under this new program, the Attorney General would

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<sup>116</sup> 18 U.S.C. § 3156(a)(4); 18 U.S.C. §.2263.

be directed to evaluate and recommend standards for training for, the practice of, and payment of forensic examinations following sexual assaults; the one-year proposed authorization for fiscal year 2001 is \$200,000.

### **Victims of Child Abuse Grants**

**Progress to Date:** Three already-existing grant programs targeted towards victims of child abuse were reauthorized by the Violence Against Women Act -- the court-appointed special advocate program, child abuse training programs for judicial personnel and practitioners, and funding for televised testimony of children in abuse cases. Research shows that between 50 and 70 percent of men who abuse their female partners also abuse their children.<sup>117</sup> These programs are summarized below:

**Court-appointed Special Advocate Program:** The court-appointed special advocate program (also known as “CASA”) is a national program of volunteers who work in the court system with children who have been abused and neglected. These grants support the screening, training and supervision of these volunteers. In 1988, 13,000 volunteers in 377 programs represented approximately 40,000 children -- about 15 percent of the estimated 270,000 cases of child abuse and neglect in juvenile and family courts.<sup>118</sup> In 1998, ten years later, 47,000 volunteers in 842 programs in all 50 states represented 183,000 children, representing about 37 percent -- over one-third -- of the 500,000 children living in foster care.<sup>119</sup>

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<sup>117</sup> M.A. Strauss and R.J. Gelles, *Physical Violence in American Families* (1990).

<sup>118</sup> The Victims of Child Abuse Act of 1990.

<sup>119</sup> The 1998 National CASA Association Annual Program Survey.

Child Abuse Training Program for Judicial Personnel and Practitioners: In 1997, just under 1 million children were victims of reported child abuse and neglect in the United States.<sup>120</sup> Courts across the country have been directed to use “reasonable efforts” in reuniting a child with his or her parents to avoid unnecessary and unnecessarily prolonged foster care placement. As a result, practitioners and judicial personnel need to understand effective and sensitive ways to interact with children in these cases. This program provides expanded technical assistance and training to judicial personnel and attorneys, particularly personnel and practitioners in juvenile and family courts, so as to improve the judicial system's handling of child abuse and neglect cases.

Televised Testimony of Children in Abuse Cases: This program funds the testimony of children in court through the use of closed-circuit television. A child who has been the victim of child abuse faces many ordeals in testifying in a child abuse case, besides being in an alien environment with unknown adults. A child who testifies in court may become anxious or afraid when testifying in court in front of his or her alleged abuser.<sup>121</sup> Testifying by television makes a child's testimony more comfortable and less terrifying for the child, and more useful in prosecuting the case.

**What the Violence Against Women Act II Does -- Extends These Three Grant Programs to Help Child Victims of Abuse:** The Violence Against Women Act II would again reauthorize these programs. The proposed authorization for grants for the court-appointed special advocate program is \$34 million over three years: \$10 million for fiscal year 2001 and \$12 million annually for fiscal years 2002 and 2003. Grants for

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<sup>120</sup> U.S. Department of Health and Human Services, *Child Maltreatment 1997: Reports for the States to the National Child Abuse and Neglect Data System*.

<sup>121</sup> U.S. Department of Health and Human Services, National Center on Child Abuse and Neglect, “Working With the Courts in Child Protection,” by Jane Nusbaum Feller (1992).



child abuse training for judicial personnel and practitioners would be authorized at \$6.9 million over three years: \$2.3 annually for fiscal years 2001 through 2003. For grants for televised testimony of children in abuse cases, the Violence Against Women Act II would authorize \$3 million over three years: \$1 million annually for fiscal years 2001 through 2003.

### **Model legislation to protect confidentiality between victims and counselors**

**Progress to Date:** Congress, in passing the Violence Against Women Act, recognized that a victim's counseling records were not always kept confidential. In many states, for example, the counseling records of a victim who received counseling from a family violence or rape crisis counselor had no protection against the records being opened because they did not have the privacy privileges given to records of a professional like a psychiatrist or psychologist. At the same time, this counseling is key in helping victims of sexual assault and family violence recover from the emotional trauma of violent crime.<sup>122</sup> The Violence Against Women Act required the Attorney General to draft model legislation for states to use to stop this abuse. The Violence Against Women Office in the Department of Justice developed two model statutes available for states to adapt as they see fit.

### **Training Programs for probation and parole officers of sex offenders**

**Progress to Date:** The Violence Against Women Act funded a grant to the Attorney General to develop a training program for probation and parole officers of released sex offenders. In 1997, the Office of Justice Programs created the Center for Sex Offender Management. The Center's primary goal is to prevent further

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<sup>122</sup> Letter from Attorney General Reno to the Senate Majority Leader Robert Dole, March 13, 1996, submitting report to Congress.

victimization by improving the management of sex offenders in their communities; it designs training programs for probation and parole agencies and gives technical assistance.

#### **IV THE CHALLENGE FOR THE FUTURE: NEXT STEPS TO END VIOLENCE AGAINST WOMEN IN THE VIOLENCE AGAINST WOMEN ACT II**

As this report has documented, we have made real progress in fighting violence against women. But the statistics also show the need to continue this fight and to do more. As the problem of violence against women becomes more visible and attitudes continue to change -- especially where law enforcement, prosecutors, and the courts are concerned -- more gaps in services for the victims of violence against women become apparent. The Violence Against Women Act II takes steps, described below, to help close these gaps.

##### **Protecting Older Women from Violence Against Women**

The Violence Against Women Act II would strengthen current law to help protect older women from abuse, neglect, and acts of violence. It would create a new program in the Department of Justice to train law enforcement personnel and prosecutors to recognize, investigate, and prosecute instances of abuse against older women. It would add abuse of older women as an area for focus of community and research initiatives, and for education and training for health and other professionals (especially those working in settings such as nursing homes and senior centers). It also would fund expanded access for older women to shelter and other programs serving

victims of violence against women. The proposed authorization is for such sums as necessary to achieve these protections.

### **Preventing Violence Against Women with Disabilities**

States are noticing an increase in the number of women with disabilities seeking assistance and services for acts of violence against them. For example, from 1996 to 1997, Vermont found that the number of disabled victims and victims over 60 years old who sought protection in shelters doubled.<sup>123</sup> The Violence Against Women Act II would focus on getting help to this group that is especially vulnerable to acts of violence against women. It would establish a new Justice Department program to provide grants to states and nonprofit agencies for education and technical assistance on violence, abuse, and sexual assault against women who have disabilities (as defined in the Americans With Disabilities Act). Priority in making grants would be given to providers of victims services who develop effective and appropriate ways to meet the needs of disabled women, particularly in shelter situations and in delivery of victim services. The proposed authorization is for \$15 million over three years: \$4 million for fiscal year 2001, \$5 million for fiscal year 2002, and \$6 million for fiscal year 2003.

### **Providing Safe Havens for Children**

Under the original Violence Against Women Act, some funding was devoted to support centers that provide supervised visitation of children by their abusive parents who are divorced, legally separated, or subject to stay-away protection orders. These centers provide a controlled setting in which a child, whose parent is subject to a protection order, can see his or her parent safely. (According to one study, during

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<sup>123</sup> Vermont Network Against Domestic Violence and Sexual Assault (April 1999).

visitations, 34 percent of abusive fathers threaten to kidnap their children and 25 percent threaten to hurt their children.<sup>124</sup>) In addition, these centers are designed so that no contact will occur between the victim of family violence and her abuser. The Violence Against Women Act II would establish a new grant program to promote and expand the establishment of such centers where such visits can occur in a secure way. This new program would allow states and tribes to contract with nonprofit entities to set up and run these centers. The proposed authorization is \$80 million over three years for this program: \$20 million for fiscal year 2001 and \$30 million annually for fiscal years 2002 and 2003 for these grants.

### **Enhancing Effective Responses to Victims of Violence Against Women**

This provision in the new Act would build on the extraordinary success of the original Act in training and supporting law enforcement and prosecutors in developing committed and effective ways to arrest and convict abusers and to deal with victims in a sensitive and useful manner. It would authorize the Attorney General to make grants to public and nonprofit organizations that have expertise and a track record of quality efforts in reducing violence against women and sexual assault. These grants would target individuals who are not law enforcement officers or prosecutors but who nevertheless are likely to come into contact with victims as part of their jobs, and would provide education and training on appropriate and effective response to victims of violence against women. This is intended to reach a broad range of people, including campus personnel, individuals who administer federal and state benefits programs, justice system professionals, medical and health care workers, and members of the clergy. The proposed authorization is \$15 million over three years: \$5 million per year for fiscal years 2001 through 2003.

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<sup>124</sup> Joan Zorza, *Protecting the Children in Custody Disputes When One Parent Abuses The Other*, 29 Clearinghouse Rev. 113, 119 (1996).

## **Preventing Workplace Violence Against Women**

Often, women who are abused have the violence follow them to work. Each year, current or former husbands and boyfriends commit more than 13,000 acts of violence against women at their workplace.<sup>125</sup> This results in lost productivity, pain and suffering, higher medical costs, absence from work, and violence. Some have estimated that the dollar cost to American companies from family violence is in the billions.<sup>126</sup> The link between family violence and the workplace is clear:

- More than 50 percent of abused women lose at least three days of work a month due to abuse.<sup>127</sup>
- Sixty percent of battered women surveyed in one study had been reprimanded because of work problems associated with abuse, and 70 percent reported difficulty in performing their job because of abuse.<sup>128</sup>
- Homicide is the most common cause of death for women at work. From 1992 to 1994, the alleged assailants in 17 percent of workplace homicides were current or former husbands or boyfriends.<sup>129</sup>

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<sup>125</sup> Amfuso, D., *Deflecting Workplace Violence*, Personnel Journal, 73, 10:66, 1994.

<sup>126</sup> Family Violence Prevention Fund web site, Ghez, Marissa, *Violence at Home has Effect on the Workplace*, 1995.

<sup>127</sup> Connie Stanley, *Domestic Violence: An Occupational Impact Study* 17, (Tulsa, Ok., July 1992) [hereafter, "Domestic Violence: An Occupational Impact Study"]; Louise Laurence & Roberta Spalter-Roth, *Measuring the Costs of Domestic Violence Against Women and the Cost Effectiveness of Interventions* 25 IWPR, Victims' Services & Domestic Violence Training Project (May 1996).

<sup>128</sup> Domestic Violence: An Occupational Impact Study.

<sup>129</sup> U.S. Dept. of Labor, Women's Bureau, Facts on Working Women, *Domestic Violence: A Workplace Issue*, No. 96-3, October, 1996.

- In a 1994 survey of Fortune 1,000 company executives, 66 percent believed that their companies' financial performance would benefit from addressing the issue of family violence among its employees.<sup>130</sup> These executives also said that family violence has a harmful effect on productivity (49 percent), attendance (47 percent), and increases insurance and medical costs (44 percent). Eighty percent said that family violence affects employees from all walks of life.<sup>131</sup>
- More than 90 percent of surveyed corporate security directors were aware of more than three incidents in which men stalked women employees, and 94 percent said that family violence is a "high" security problem at their companies.<sup>132</sup>

Although nearly half of the U.S. workforce is composed of women, only a handful of companies actually address family violence.<sup>133</sup> In the past, most employee assistance programs in this country did not address the issue of family violence. According to the Family Violence Prevention Fund, today more and more companies are inquiring about the issue of family violence as it relates to employee assistance programs.<sup>134</sup> Some companies provide family violence education for their employees, as well as assistance programs that include counseling and referrals to family violence programs.<sup>135</sup> Several companies have begun their own workplace initiatives, ranging

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<sup>130</sup> Family Violence Prevention Fund web site (citing *Women's Work Program*, Liz Claiborne, Inc., Survey conducted by Roper Starch Worldwide, New York, Liz Claiborne, Inc., July 18-August 5, 1994).

<sup>131</sup> *Id.*

<sup>132</sup> Family Violence Prevention Fund web site, Ghez, Marissa, *Violence at Home has Effect on the Workplace*, 1995.

<sup>133</sup> U.S. Department of Labor, Women's Bureau, Facts on Working Women, *20 Facts on Women Workers*, No. 98-2, May, 1998.

<sup>134</sup> Family Violence Prevention Fund web site, Ghez, Marissa, *Violence at Home has Effect on the Workplace*, 1995.

<sup>135</sup> *Id.* Both Polaroid Corp. and Liz Claiborne, Inc. have employee assistance programs that provide help for employees coping with family violence. Other companies make available to their employees the Family Violence Prevention Fund's *Community Action Kit*, which includes

from assistance hotlines for their employees to training managers better recognize family violence and comprehensive employee assistance efforts.<sup>136</sup>

States also are beginning to take steps to protect the victims of violence against women from being discriminated against in the workplace as a direct result of the abuse they have suffered. For example, in 1998 alone, three states passed laws that prohibit employers from discriminating against women who are victims of family violence.<sup>137</sup> For example, New Hampshire law prohibits an employer from denying unemployment benefits to an employee who leaves a job in order to be safe from violence.<sup>138</sup>

The Violence Against Women Act II would do the following to address violence against women in the workplace:

- Allow use of leave time guaranteed under the Family and Medical Leave Act by victims of family violence for services directly related to that violence, including medical attention for injuries, court appearances, meetings with police officers or attorneys, and similar assistance.
- Ensure that victims of violence against women are eligible for unemployment compensation when separation from work is a direct result of the violence; and provide training for personnel involved in assessing unemployment claims on the nature and dynamics of this violence.
- Establish a National Workplace Clearinghouse on Violence Against Women to assist employers and labor organizations to develop and implement appropriate workplace policies and strategies to assist employees who are victims of family

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referrals to domestic violence coalitions.

<sup>136</sup> *Id.*

<sup>137</sup> Family Violence Legislative Update at 8.

<sup>138</sup> *Id.*

violence or sexual assault. The proposed authorization is \$3 million over three years: \$1 million annually for fiscal years 2001 through 2003.

### **Prohibiting Insurance Discrimination for Victims of Violence Against Women**

Of the many indignities that victims of violence against women face, one of the most insidious occurs when an insurance company cancels a victim's policy or refuses to issue her one directly because she has been a victim of family violence, thereby denying her access to health care and some financial security. For example, shelters have been denied group health insurance. An insurance company denied a property and casualty insurance claim by a Washington state woman whose house was burned down by her estranged husband.<sup>139</sup> States are already taking measures to prevent this. For example, at least 13 states prohibit insurance discrimination against victims of family violence.<sup>140</sup> In Kentucky, a 1998 state law provides that incidents of violence against women cannot be considered a pre-existing condition that precludes a policy's coverage.<sup>141</sup> West Virginia enacted a law that same year that prohibits a health benefits policy from denying coverage for reconstructive or cosmetic surgery that is necessary as the result of an injury from an act of violence by an abuser or attacker.<sup>142</sup>

The Violence Against Women Act II contains provisions that would build on these state initiatives by prohibiting discrimination against victims of family violence in

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<sup>139</sup> Terry Fromson and Nancy Durborow, *Insurance Discrimination Against Victims of Domestic Violence*, developed by the Women's Law Project and the Pennsylvania Coalition Against Domestic Violence (July 1998).

<sup>140</sup> *Id.* These states have adopted legislation covering health, life, disability, and property insurance.

<sup>141</sup> Family Violence Legislative Update at 7.

<sup>142</sup> *Id.*



the issuance and administration of health, disability, property and life insurance policies.

### **Strengthening Federal Controls on “Date-Rape” Drugs**

“Date-rape drugs” are so termed because they are used to incapacitate women targeted for sexual assault. In such cases, the drug is given to unsuspecting women, usually mixed in a drink, causing loss of muscle control, judgement and sometimes consciousness. The next morning, the victim cannot remember what happened. One drug that has been often used as a date-rape drug is flunitrazepam, the generic name for Rohypnol (also known as “roofies”).<sup>143</sup> Another “club drug” emerging as a date rape drug is gamma-hydroxybutrate, also known as GHB.<sup>144</sup> Odorless and without taste, GHB is a central nervous system depressant that typically taken orally when mixed into a liquid such as alcohol. Depending on the amount taken, effects include drowsiness, dizziness, amnesia, reduced blood pressure, reduced heart rate and hypnotic effects. Excessive doses can lead to severe respiratory depression and coma (especially when the drug is combined with alcohol).

Like “roofies,” GHB is easily slipped into someone's drink and causes amnesia and drowsiness. The Drug Enforcement Administration reports at least 13 sexual assault cases involving 22 victims under the influence of GHB since 1996. GHB is not currently regulated at all by the Controlled Substances Act and is not eligible for emergency scheduling under current law. The Violence Against Women Act II would

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<sup>143</sup> U.S. Department of Justice, Drug Enforcement Administration, web site, *Flunitrazepam*, April 1999. Flunitrazepam is the generic name for Rohypnol.

<sup>144</sup> Street names include: Grievous Bodily Harm, liquid ecstasy, and goop.

transfer Rohypnol from Schedule IV to Schedule I of the Controlled Substances Act and would place GHB on Schedule I as well.<sup>145</sup>

### **Strengthening Protections Against Violence for Women in the Military**

Many women experience family violence and sexual assault while in the military.<sup>146</sup> One study found that 90 percent of women under age 50 and 37 percent of women age 50 or older had been sexually harassed in the military.<sup>147</sup> Based on these findings, the study's authors concluded that women in the military may have a greater risk of sexual assault than any other government employees.<sup>148</sup> A review of Pentagon records from 1992 through 1996 found that 50,000 military spouses were victims of family violence, five times greater than the civilian population rate in Department of Justice records.<sup>149</sup>

A non-military person employed by or accompanying the armed forces outside of the United States who commits family violence or a sexual assault offense often escapes legal punishment. The Violence Against Women Act II would remedy this by causing that person to be subject to prosecution by federal courts in the United States if not prosecuted for the offense in a military court or foreign court. It also would require

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<sup>145</sup> Schedule I is a list of drugs whose use and sale triggers the toughest federal drug law penalties. Putting these drugs on Schedule I not only triggers these penalties, but also triggers increased penalties at the state level where many such cases are tried.

<sup>146</sup> Family Violence Prevention Fund web site (citing Murdoch, M.D., M., and Kristin L Nichol, M.D., *Women Veterans' Experiences With Domestic Violence and With Sexual Harassment While in the Military*, May, 1993).

<sup>147</sup> *Id.*

<sup>148</sup> *Id.*

<sup>149</sup> *60 Minutes*, CBS Network broadcast (Jan. 17, 1999).

the military to give the FBI, at the time of dismissal of a member of the armed forces, a copy of records of penal actions taken against that person. Currently, a spouse who is abused by a member of the armed forces may receive compensation from the Secretary of Defense for a transitional period when the member is dismissed or discharged from the armed forces. The bill would clarify the discretion of the Secretary of Defense to resume this transitional compensation in certain extraordinary cases.

### **Establishment of Independent Violence Against Women Office at the Department of Justice**

Six months after the Violence Against Women Act became law, President Clinton named Bonnie Campbell, a former Attorney General for the state of Iowa, as director of the Violence Against Women Office, with responsibility for implementing the Act. The activities falling under Justice Department authority under the Act were divided between this office and a separate office that administered grant programs. Recently, the two offices were merged and became one of many project offices under the Office of Justice Programs.

Implementing the range of unique issues that are part of the Violence Against Women Act goes far beyond simply administering grant programs. For example, the Violence Against Women Office is responsible for training and technical assistance that ensures that states, local grant recipients, and national organizations who were awarded federal funds under the Act develop an effective capacity to respond effectively in a comprehensive, coordinated way to violence against women. One such project is a partnership with the National Institute of Justice focusing on the impact of frequent judicial oversight in family violence cases that links up other grantees to three demonstration sites to learn from them and adapt practices for their own use.

Because of the critical nationwide importance of continuing a vigorous, integrated response to the problem of violence against women in this country, it is necessary to ensure that the Violence Against Women Office exists as a high profile, single independent entity within the Department of Justice. It should be separate from and on a par with other divisions within the Department of Justice to effectively coordinate and implement all Justice Department initiatives based on Violence Against Women authorizations and appropriations. To that end, the Violence Against Women Act II would create an independent office within the Justice Department whose Director would be presidentially appointed and subject to Senate confirmation.

### **New Training Efforts**

#### **Promoting Education & Training of Health Professionals**

In a survey of graduating medical students, a majority of them rated the time that was devoted during their education to learning about violence against women as inadequate.<sup>150</sup> The Violence Against Women Act II would amend the Public Health Services Act to give funding priority to medical schools and training programs that require training in the identification, treatment and referral of victims of family violence and sexual assault. This would encourage medical schools to incorporate training on violence against women as a part of their regular curriculums.

## **V. CONCLUSION**

While the successes of the Violence Against Women Act are significant, we can and must do more. Since its enactment, the Violence Against Women Act has had a ripple effect. The law has provided funding to state and local governments, which have instituted successful programs to combat family violence. The Violence Against

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<sup>150</sup> Association of American Medical Colleges, AAMC Graduation Questionnaire (1994).

Women Act has been a catalyst for change in communities just beginning to address the scourge of family violence, and it has provided the funding to initiate advances in communities which already had family violence programs.

The Violence Against Women Act II will continue these initiatives and successes and further facilitate the dialogue and collaboration that has developed between victims, advocacy groups and governmental agencies, which traditionally have not worked together. America's women and children deserve no less.